

MONTANA LEGISLATIVE HISTORY

Chapter 12 19 77

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H. Committee on Agriculture Livestock & Irrigation S. Committee on Agriculture Livestock & Irrigation

Hearing Date(s) Jan 25 ☒ C

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Jan 10 ☒ C

Date Out Jan 25 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

SENATE BILL NO. 14

INTRODUCED BY GRAHAM

A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE GENERAL REVISION AND CLARIFICATION OF THE LAWS RELATING TO LIVESTOCK."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 3-2404, R.C.M. 1947, is amended to read as follows:

"3-2404. Definitions of terms. For the purpose of this act, the following definitions are adopted:

(1) Butter is the clean, nonrancid product made by gathering the fat of fresh ripened milk or cream into a mass which also contains a small portion of the other milk constituents, with or without salt, and must contain not less than ~~eighty percent~~ (80%) of milk fat. No tolerance for deficiency in milk fat is permitted. Butter may also contain added coloring matter.

(2) Renovated butter or ~~process~~ processed butter is the product made by melting and reworking, without the addition or use of chemicals or substances except whole milk, cream, or salt, and must contain not less than ~~eighty percent~~ (80%) of milk fat.

(3) Cheese is the sound, solid, and ripened product

made from milk or cream by coagulating the casein with rennet or lactic acid, with or without ripening ferments and seasoning, and must contain in the ~~water-free~~ water-free substance, not less than ~~fifty percent~~ (50%) of milk fat, and not more than ~~thirty-nine percent~~ (39%) of moisture. Cheese may also contain added coloring matter.

(4) Skimmed milk cheese is the sound, solid, and ripened product made from skim milk by coagulating the casein with rennet or lactic acid, with or without ripening ferments and seasoning.

(5) Ice cream is a frozen product made with pure, sweet milk, cream, skim milk, evaporated or condensed milk, evaporated or condensed skim milk, dry milk, dry skim milk, pure milk fat, ~~or~~ wholesome sweet butter, or any combination of these products, with or without sweetening, or clean wholesome eggs or egg products, with or without the use of harmless flavoring and coloring. Ice cream must contain not less than ~~ten percent~~ (10%) of milk fat, not less than ~~thirty-three percent~~ (33%) total solids, and may or may not contain pure and harmless edible stabilizer. Ice cream may contain not to exceed ~~one percent~~ (1%) gelatin. No frozen milk or milk product may be manufactured or sold unless it contains at least ~~ten percent~~ (10%) butterfat, excepting sherbets, ices, and other exceptions under this section. All ice cream must be manufactured from pasteurized ice cream

1 mix.

2 (6) Fruit ice cream shall conform to the requirements
3 of ice cream, except that the fruit ingredients must be from
4 sound, clean, and mature fruit, and it must contain not less
5 than ~~nine percent (9%)~~ of milk fat.

6 (7) French ice cream, French custard ice cream, cooked
7 ice cream, ice custard, parfaits, and similar frozen
8 products, except sherbets and water ices, are varieties of
9 ice cream.

10 (8) Ice cream mix is a pasteurized, unfrozen product
11 used in the manufacture of ice cream and must comply with
12 the requirements for ice cream.

13 (9) Milk sherbet is the pure, clean, frozen product
14 made from milk product, water, and sugar, with harmless
15 fruit or fruit juice flavoring and with or without harmless
16 coloring, which must contain not less than ~~0.35 of one~~
17 ~~percent (0.35%)~~ 35/100 of 1% of acid, as determined by
18 titrating with standard alkali and expressed as lactic acid,
19 and with or without added stabilizer composed of wholesome
20 edible material. It must contain not less than ~~four percent~~
21 ~~(4%)~~ by weight of solids.

22 (10) Ice or ice sherbet is the pure, clean, frozen
23 product made from water and sugar with harmless fruit or
24 fruit juice flavoring, and with or without harmless coloring
25 or added stabilizer composed of wholesome edible material,

1 and must ~~not~~ contain not less than ~~0.35 of one percent~~
2 ~~(0.35%)~~ 35/100 of 1% of acid, as determined by titrating
3 with standard alkali and expressed as lactic acid, ~~and with~~
4 ~~or without added stabilizer composed of wholesome edible~~
5 ~~material.~~ It ~~must~~ may contain no milk solids.

6 (11) A creamery is a place where ~~the~~ milk or cream
7 furnished by three ~~(3)~~ or more persons is used for ~~the~~
8 manufacture into butter for commercial purposes.

9 (12) A cheese factory is a place where milk furnished
10 by three ~~(3)~~ or more persons is made into cheese for
11 commercial purposes.

12 (13) An ice cream factory is a place where ice cream
13 mix is frozen into ice cream for commercial purposes.

14 (14) An ice cream mix factory is a place where ice
15 cream mix is made.

16 (15) A milk or cream buying or collecting station is a
17 place where milk or cream is bought or collected for
18 shipment or delivery to a creamery or to a person intending
19 to make use of it for commercial purposes.

20 (16) Person includes persons, whether natural or
21 artificial, including firms, ~~copartnerships~~ partnerships,
22 corporations, and marketing associations of every
23 description.

24 (17) The term "department", unless otherwise
25 indicated, means the department of livestock provided for in

1 Title 82A, chapter 13.

2 (18) It is unlawful for a person, firm, or
3 corporation, or its servant or agent, to manufacture, sell,
4 or expose, or offer for sale, or exchange butter or other
5 substance or commodity defined in this act containing less
6 butterfat or other ingredient than required by this act. A
7 violator is guilty of a misdemeanor and is punishable under
8 ~~section 3-2460~~ 3-24-137."

9 Section 2. Section 3-2489, R.C.M. 1947, is amended to
10 read as follows:

11 "3-2489. Promulgation of minimum standards for milk or
12 cream. The department may adopt minimum standards for milk
13 ~~and cream used for manufacturing purposes; its the~~
14 production, transportation, grading, testing, use,
15 processing, ~~and the~~ packaging, and storage of ~~manufactured~~
16 ~~dairy products~~ milk and cream used for manufacturing
17 purposes and of manufactured dairy products."

18 Section 3. Section 3-2496, R.C.M. 1947, is amended to
19 read as follows:

20 "3-2496. Investigation of complaints and violations —
21 injunction. The department shall provide for periodic
22 inspections and investigations to disclose violations of
23 this act or of rules adopted under this act. The department
24 shall receive and provide for the investigation of
25 complaints and request the institution and prosecution of

1 civil or criminal actions, or both. This act and the rules
2 adopted under it may be enforced by injunction in a court
3 having jurisdiction to grant injunctive relief. An
4 adulterated, impure, contaminated, misbranded, condemned, or
5 mislabeled article or product involved in a violation of
6 this act or of the rules adopted under this act is subject
7 to seizure and disposition under an order of the court."

8 Section 4. Section 3-2497, R.C.M. 1947, is amended to
9 read as follows:

10 "3-2497. Definitions. Unless the context requires
11 otherwise in this act the following definitions apply:

12 (1) "Department" means the department of livestock,
13 provided for in Title 82A, chapter 13.

14 (2) "Milk" and "cream" mean milk and cream sold, used,
15 or intended for manufacturing purposes or for conversion
16 into products of a form other than the form in which
17 originally produced or products commonly known as, but not
18 limited to:

19 (a) Butter-;

20 (b) Cheese, including cottage cheese, low-fat cottage
21 cheese, cheese curd, and cream cheese which are either
22 cultured or directly acidified, and cheese dressings-;

23 (c) Ice cream or its mix-;

24 (d) Frozen dessert or its mix-;

25 (e) ~~Sherbet~~ Sherbets of all kinds or their mixes-;

(f) Frozen ice cream bars, sandwiches, cones, and similar novelties-;

(g) Frozen desserts or products made in the semblance or imitation of frozen dessert-;

(h) Frozen confections or their mixes-;

(i) Water ices or their mixes-;

(j) Ice milk or its mix-;

(k) French ice cream, French custard, or their mixes-;

(l) Frozen custard or its mix and frozen yogurt-;

(m) Yogurt, flavored yogurt, and low-fat yogurt-;

(n) Sour cream—either cultured or directly acidified-;

(o) Cream cheese—either cultured or directly acidified-;

(p) Buttermilk—either cultured, from churned butter, or directly acidified-;

(q) Eggnog, low-fat eggnog, ~~eggnog—flavored~~ eggnog-flavored milk, whipped cream, flavored toppings, and similar flavored products-;

(r) Dry or powdered milk-; and

(s) Condensed milk products.

(3) The items specified in subsections (2) ~~(a) through~~ (2) (s) of this section, ~~(a) through (s)~~ shall conform to the standards of identity set forth in the Code of Federal Regulations. If standards of identity are not set forth in

the code, then the standards adopted by the department prevail. The labeling of manufactured dairy products shall be in accordance with the Montana Food, Drug, and Cosmetic Act.

(4) "Manufactured dairy product" means an item enumerated in subsection ~~(3)~~, (2) or any other dairy product made by incorporating milk or cream or converting milk or cream into a different state of appearance or quality.

(5) "Manufactured dairy products plant" or "factory" means a place where milk or cream is collected, and converted into a product, or into a different state of appearance or quality or which manufactures those products listed in subsection (2). If only products of semblance or imitation of dairy products are made, the plant is not considered as a manufactured dairy products plant.

(6) "Creamery" means a place where butter is made for commercial purposes.

(7) "Cheese factory" means a place where cheese including cream cheese, cottage cheese, creamed cottage cheese, cheese curd, cottage cheese dressing, and low-fat counterparts of cheese, either cultured or directly acidified, ~~are~~ is made for commercial purposes.

(8) "Frozen dessert plant" means a place where products named in ~~subsection~~ subsections (2) (c) through (2) (i), of this section are made for commercial purposes.

1 (9) "Cream station" means a place other than a
2 creamery where deliveries of milk or cream are weighed,
3 graded, sampled, tested, or collected for purchase.

4 (10) "Dairy" or "dairy farm" means a place where one
5 ~~four~~ or more cows or goats are kept, a part or all of the
6 milk or cream from which is used for manufacturing purposes.

7 (11) "Milk" means the lacteal secretion, practically
8 free from colostrum, obtained by the milking of one ~~four~~ or
9 more healthy cows located in modified accredited areas and
10 modified certified areas or from cows in herds fully
11 accredited as tuberculosis free by the United States
12 ~~Department~~ Department of Agriculture ~~agriculture~~ or in the
13 process of being accredited when the milk or cream is sold
14 for use in, intended for use in, or used in a manufactured
15 dairy product.

16 (12) "Cream" means the milk fat which rises to the
17 surface when milk is allowed to stand, or which is separated
18 from milk by centrifugal force when sold, used, or intended
19 for use in a manufactured product.

20 (13) "Raw milk" or "raw milk products" means milk or
21 milk products which have not been treated by a process of
22 pasteurization.

23 (14) "Person" means an individual, firm, partnership,
24 corporation, ~~co-operative~~ cooperative, or other business
25 unit or trade device.

1 (15) "Pasteurization," "pasteurizing," and similar
2 terms mean the process of heating every particle of milk or
3 milk product to at least 145 degrees F., and holding it
4 continuously at or above this temperature for at least
5 ~~thirty~~ ~~(30)~~ minutes, or to at least 161 degrees F., and
6 holding it continuously at or above this temperature for at
7 least ~~fifteen~~ ~~(15)~~ seconds, in equipment which is properly
8 operated and approved by the department. Milk products that
9 have a higher fat content than milk or contain added
10 sweeteners shall be heated to at least 155 degrees F., and
11 held continuously at or above this temperature for at least
12 ~~thirty~~ ~~(30)~~ minutes, or to at least 175 degrees F., and held
13 continuously at or above this temperature for at least
14 ~~twenty-five~~ ~~(25)~~ seconds. This definition does not bar any
15 other pasteurization process which has been recognized by
16 the United States ~~Public Health Service~~ public health
17 service to be equally effective and which is approved by the
18 department.

19 (16) "Agent" means a person who is authorized by
20 another person to act for him in dealing with a third
21 person.

22 (17) "Grading" means the examination of milk, cream,
23 or products, by sight, odor, taste, or laboratory analysis,
24 the results of which determine a grade designating their
25 quality.

1 (18) "Testing", "test", "tested", and similar words
2 mean the examination of milk, cream, or manufactured dairy
3 products by sight, odor, taste, or biological or chemical
4 laboratory analysis to determine their quality,
5 wholesomeness, or composition.

6 (19) "Safe temperature" means 45 degrees F. or less,
7 unless the product is frozen, in which case the temperature
8 must be at or below 0 degrees F.

9 (20) "Producer" means the person who exercises control
10 over the production of milk or cream, delivered to a milk or
11 cream receiving station or manufactured dairy products
12 plant, or who receives payment for milk or cream used in
13 manufacturing.

14 (21) "Mix" includes the liquid, unfrozen product from
15 which those frozen products listed under subsection (2) (c)
16 through (2) (e) and (2) (g) through (2) (i) are made.

17 (22) For purposes of reporting production, and
18 licensing, "manufactured dairy product" includes, but is not
19 limited to:

20 (a) Ice cream or its mix;

21 (b) French ice cream, custard ice cream, French
22 custard ice cream, their low-fat counterparts, or their
23 mixes;

24 (c) Sherbets of all kinds or their mixes;

25 (d) Animal or vegetable fat frozen desserts or their

1 mixes;

2 (e) Frozen confections or their mixes when made in a
3 manufactured dairy products plant;

4 (f) Water ices or their mixes;

5 (g) Frozen dessert sandwiches, bars, cones, and
6 similar novelties;

7 (h) Frozen dessert made of ~~non-dairy~~ nondairy origins,
8 and other products made in the semblance or imitation of
9 dairy products or their mixes when made in a manufactured
10 dairy products plant;

11 (i) Ice milk or its mix;

12 (j) Cheese of all kinds including cottage cheese,
13 cheese curd, cheese dressing, and cream cheese either
14 cultured or directly acidified;

15 (k) Sour cream when cultured or directly acidified;

16 (l) Eggnog, low-fat eggnog, ~~eggnog~~ eggnog-flavored
17 eggnog-flavored milk, and similar flavored products;

18 (m) Buttermilk, cultured, or from churned butter, or
19 directly acidified;

20 (n) Butter;

21 (o) Yogurt—low-fat yogurt, flavored yogurt, either
22 cultured or directly acidified, or frozen.

23 (23) "Official test" means test procedures outlined in
24 the sources referred to under section 3-2498 of concerning
25 samples, methods, and rules of evidence.

1 (24) "Water ice" means a frozen product, containing,
2 but not limited to, the following ingredients: water, sugar,
3 flavoring, coloring, stabilizers, and other ingredients
4 allowed by the Code of Federal Regulations as optional
5 ingredients.

6 (25) "C.I.P." means the procedure by which sanitary
7 pipelines or pieces of dairy equipment are mechanically
8 cleaned in place by circulation and when this procedure
9 meets the 3-A accepted practices for permanently installed
10 sanitary product-pipelines and cleaning systems.

11 (26) "Filled dairy products" means milk, cream, or
12 skimmed milk, or any combination of these, whether or not
13 condensed, evaporated, concentrated, frozen, powdered,
14 dried, or desiccated, or any food product made or
15 manufactured from them, to which has been added, or which
16 has been blended or compounded with, fat or oil other than
17 milk fat, so that the resulting product is in imitation or
18 semblance of a dairy product, including milk, cream, sour
19 cream, skimmed milk, ice cream, low-fat ice cream, whipped
20 cream, flavored milk or skim milk yogurt, dried or powdered
21 milk, cheese, cream, cream cheese, cottage cheese, creamed
22 cottage cheese, ice cream mix, low-fat ice cream mix,
23 sherbet, condensed milk, evaporated milk, or concentrated
24 milk.

25 (27) "Intrastate commerce" means commerce within this

1 state under the jurisdiction of the state, and includes the
2 operation of a business or service establishment.

3 (28) "Code of Federal Regulations" refers especially
4 but is not limited to Title 21 which contains the
5 definitions and standards of identity for products as
6 established by the ~~Food~~ food and ~~Drug Administration~~ drug
7 administration, United States ~~Department~~ department of
8 ~~Health, Education~~ health, education and ~~Welfare~~ welfare.

9 (29) "Culture" means the harmless lactic acid
10 fermenting bacteria which are added to milk or cream to make
11 manufactured dairy products like cultured buttermilk,
12 cheese, cottage cheese, yogurt, sour cream, cream cheese,
13 butter, and other similar products.

14 (30) "Direct acidification—" "directly acidified,"
15 and similar terms mean the process of adding a food grade
16 acid to milk or cream instead of or in addition to the
17 adding of culture.

18 (31) "Mislabeled," "unwholesome," "food additives,"
19 "optional ingredients," "impure," "misbranded,"
20 "contaminated," "adulterated," "perishable,"
21 "hazardous," "unfit," "spoiled," "damaged," and similar
22 terms, when applied to a manufactured dairy product or
23 product made in semblance or in imitation of a manufactured
24 dairy product, are as defined in ~~sections 27-701 to~~ through
25 27-723."

1 Section 5. Section 3-2498, R.C.M. 1947, is amended to
2 read as follows:

3 "3-2498. Tests and analyses — admissibility as
4 evidence. (1) The department may require a chemist,
5 biologist, microbiologist, serologist, or other qualified
6 employee of the department of health and environmental
7 sciences or other laboratory approved by the department, to
8 test or analyze samples of milk, cream, manufactured dairy
9 products, or products made in the semblance or imitation of
10 these products.

11 (2) Any appropriate test method listed in Standard
12 Methods for the Examination of Dairy Products, current
13 edition—American Public Health Association, Inc., 1740
14 ~~Broadway, New York, N.Y. 10019~~, or Standard Methods for the
15 Examination of Water and Waste Water, current
16 edition—American Public Health Association, Inc., 1790
17 ~~Broadway, New York, N.Y. 10019~~, or the methods in the
18 Official Methods of Analysis of the Association of Official
19 Analytical Chemists, current edition as published by the
20 Association of Official Analytical Chemists, Box 540,
21 ~~Benjamin Franklin Station, Washington 9, D.C.~~ or any other
22 appropriate tests approved by the department may be used,
23 and the results of these tests or analyses are admissible as
24 prima facie evidence of the facts disclosed, in a court,
25 hearing, or proceeding arising under this act, when

1 identified by the sample numbers and verified by the
2 department representative and analyst handling them. These
3 tests shall be designated and referred to as "official
4 tests." "

5 Section 6. Section 3-24-122, R.C.M. 1947, is amended
6 to read as follows:

7 "3-24-122. Filled dairy products unlawful —
8 exceptions. (1) Filled dairy products resemble genuine dairy
9 products so closely that they lend themselves readily to
10 substitution for and confusion with such dairy products and
11 in many cases cannot be distinguished from genuine dairy
12 products by the ordinary consumer or ordinary laboratory
13 procedures. The manufacture, sale, exchange, purveying,
14 transportation, possession, or offering for sale or exchange
15 or purveyance of filled dairy products lends itself to
16 substitution, confusion, deception, and fraud, and ~~one which~~
17 if permitted, ~~to exist~~ tends to interfere with the orderly
18 and fair marketing of foods essential to the well-being of
19 the people of this state. It is hereby declared to be the
20 purpose of this act to:

21 (a) ~~to~~ correct, prevent, and eliminate the condition
22 above referred to;

23 (b) ~~to~~ protect the public from confusion, fraud, and
24 deception;

25 (c) ~~to~~ prohibit practices inimical to the general

1 welfare; and

2 (d) to promote the orderly and fair marketing of
3 essential foods.

4 ~~(1)(2) Therefore, it shall be~~ It is unlawful; in
5 ~~intrastate commerce~~

6 (a) for any person to manufacture, sell, exchange,
7 display, purvey, transport, or possess any filled dairy
8 product or to offer or expose for sale or exchange or to be
9 purveyed any such product in intrastate commerce;

10 ~~(2)(b) It shall be unlawful~~ for any person owning or
11 operating a bakery, confectionery shop, factory, or other
12 place where food products are prepared or manufactured for
13 sale, exchange, or purveyance to the public in intrastate
14 commerce to utilize any filled dairy product as an
15 ingredient in any food product so manufactured or prepared;

16 ~~(3)(c) It shall be unlawful in intrastate commerce~~ for
17 any person knowingly to sell, exchange, purvey, transport,
18 or possess any food product in intrastate commerce in which
19 any filled dairy product is an ingredient;

20 ~~(3) provided, however, that the~~ The term "filled dairy
21 product" ~~shall not be construed to~~ does not mean or include:

22 (a) oleomargarine ~~oleomargarine~~;

23 (b) ~~any~~ any distinctive proprietary food compound not
24 readily mistaken for a dairy product where such compound is
25 customarily used on the order of a physician and is prepared

1 and designed for medicinal or special dietary use and
2 prominently so labeled;

3 (c) ~~any~~ any frozen dessert containing animal fat
4 (other than butterfat) or vegetable fat when the container
5 is properly labeled;

6 (d) ~~any~~ any dairy product flavored with chocolate or
7 cocoa where the fats or oils other than milk fat contained
8 in such product do not exceed the amount of cacao fat
9 naturally present in the chocolate or cocoa used; or

10 (e) ~~any~~ any dairy product in which the vitamin content
11 has been increased and food oil utilized as a carrier of
12 such vitamins provided the quantity of such food oil does
13 not exceed ~~one one hundredths (1/100)~~ of ~~one per cent (1%)~~
14 of the weight of the finished dairy product."

15 Section 7. Section 3-24-127, R.C.M. 1947, is amended
16 to read as follows:

17 "3-24-127. Pasteurization apparatus and records.

18 (1) The department may adopt rules which it considers
19 necessary to assure proper control and use of all equipment
20 used in the process of pasteurization. The department may
21 require the operation of devices and apparatus which are
22 needed to accurately record and indicate temperatures to
23 which and the length of time for which the pasteurized
24 product has been heated, including those periods and
25 temperatures when the equipment is cleaned and sanitized by

C.I.P. method. A person using pasteurizing equipment in this state shall properly record and have available to the department for the preceding ~~two~~ (2) months all records pertaining to the pasteurization of any product. These records shall, at all times, be open to the inspection of the department, the department of health and environmental sciences, and all other state, county, and municipal officers charged with the enforcement of laws and ordinances respecting dairy products or the public health.

(2) Pasteurizing equipment which records temperatures or controls the time of holding shall be timed, set, and sealed by the department. The seals may not be removed or broken without first notifying the department."

Section 8. Section 3-24-138, R.C.S. 1947, is amended to read as follows:

"3-24-138. Deceit in grade, measure, or test of milk and cream unlawful. ~~A person, firm, or corporation selling or delivering milk or cream, or receiving or purchasing milk or cream by weight, grade or Babcock test, or either, or by measure, grade or Babcock test, or either, may not with intent to deceive or defraud as to the weight, grade, measure or Babcock test thereof, manipulate, change or alter the measure, Babcock test, grade or weight, or make or return to a person a false or inaccurate statement of the weight, grade, Babcock test or measure, or~~ No person may use

a measure or grading or testing apparatus which does not comply with the standards of the department ~~or which has been condemned as inaccurate or make any false or inaccurate statement or otherwise deceive or defraud a producer or other person concerning the weight, measure, butterfat content, or other component content of milk or cream.~~

Section 9. Section 46-208, R.C.S. 1947, is amended to read as follows:

"46-208. Powers of department. The department may:

(1) ~~Supervise~~ supervise the sanitary conditions of livestock in this state, under the provisions of the constitution and statutes of this state and the rules adopted by the department. The department may quarantine a lot, yard, land, building, room, premises, inclosure, or other place or section in this state, which is or may be used or occupied by livestock, and which, in the judgment of the department is infected or contaminated with an infectious, contagious, communicable, or dangerous disease, or disease-carrying medium by which the disease may be communicated. The department may quarantine livestock in this state, when the livestock is affected with, or has been exposed to disease or disease-carrying medium. The department may prescribe treatments and enforce sanitary rules which are necessary and proper to circumscribe, extirpate, control, or prevent the diseases.

1 (2) ~~Foster~~ foster, promote, and protect the livestock
 2 industry in this state by the investigation of diseases and
 3 other subjects related to ways and means of prevention,
 4 extirpation, and control of diseases, or to the care of
 5 livestock and its products, and to this end ~~to~~ may establish
 6 and maintain a laboratory, ~~and to~~ may make, or cause to be
 7 made, biologic products, curatives, and preventative
 8 agents, and ~~to do so~~ may perform any other acts and things
 9 as may be necessary or proper in the fostering, promotion,
 10 or protection of the livestock industry in this state.

11 (3) ~~Impose~~ impose and collect such fees as the
 12 department considers appropriate for the tests and services
 13 performed by the laboratory and for ~~such~~ biologic products,
 14 curatives, and preventative agents made or caused to be made
 15 by the department. In fixing ~~such~~ these fees the department
 16 shall take into consideration the costs, both direct and
 17 indirect, of ~~such~~ the tests, services, products, curatives,
 18 and agents. All fees shall be deposited in the earmarked
 19 revenue fund for the use of the animal health functions of
 20 the department.

21 (4) ~~Adopt~~ adopt rules and orders which it considers
 22 necessary or proper to prevent the introduction or spreading
 23 of infectious, contagious, communicable, or dangerous
 24 diseases affecting livestock in this state, and to this end
 25 may adopt rules and orders necessary or proper governing

1 inspections and tests of livestock intended for importation
 2 into this state, before it may be imported into this state.

3 (5) ~~Adopt~~ adopt rules and orders which it considers
 4 necessary or proper for the inspection, testing, and
 5 quarantine of all livestock imported into this state.

6 (6) ~~Adopt~~ adopt rules and orders which it considers
 7 necessary or proper for the supervision, inspection, and
 8 control of the standards and sanitary conditions of
 9 slaughterhouses, meat depots, meat and meat food products,
 10 dairies, milk depots, milk and its by-products, barns, dairy
 11 cows, factories, and other places and premises where meat,
 12 or meat foods, milk or its products, or any by-products
 13 thereof intended for sale or consumption as food are
 14 produced, kept, handled, or stored. ~~For the purposes of this~~
 15 ~~act as~~ An authorized representative of the department, may
 16 take samples of a product so produced, kept, handled, or
 17 stored, for analysis or testing by the department's chemist,
 18 bacteriologist, ~~or the state chemist, and the department.~~
 19 The records of the samples and their analysis and test, when
 20 identified, as to the sample by the oath of the officer
 21 taking it, and verified, as to the analysis or test, by the
 22 oath of the chemist or bacteriologist making it, ~~is~~ are
 23 prima facie evidence of the facts set forth in it, ~~then~~ when
 24 offered in evidence in a prosecution or action at law or in
 25 equity for violation of this ~~act~~, chapter or a rule or order

of the board adopted under this ~~act~~ chapter. These standards, ~~in so far as~~ insofar as they relate to dairies or milk and its by-products, may not include standards of weight or measurement.

(7) ~~adopt~~ adopt rules and orders which seem necessary or proper for the supervision and control of manufactured and refined foods for livestock, and the manufacture, importation, sale, and method of using a biologic remedy or curative agent for the treatment of diseases of livestock. However, as far as practicable the standards approved by the United States department of agriculture shall be adopted.

(8) ~~Install~~ install an adequate system of meat inspection at any time and in such places as public welfare may demand under the rules which may provide fees for the maintenance of such inspection, and which shall provide ways and means for shipping home-grown and home-killed meats into any city in this state. As far as practicable, the rules shall conform with the meat-inspection requirements of the United States department of agriculture.

(9) ~~Slaughter~~ slaughter or cause to be slaughtered, any livestock in this state known to be affected with, or which has been exposed to, an infectious, contagious, communicable, or dangerous disease, when such slaughter is necessary for the protection of other livestock, and destroy, or cause to be destroyed, all barns, stables,

sheds, ~~out-buildings~~ outbuildings, fixtures, furniture, and or personal property infected with any such infectious, contagious, communicable, or dangerous disease, when they cannot be thoroughly cleaned and disinfected and the destruction is necessary to prevent the spreading of the disease.

(10) ~~Indemnify~~ indemnify the owner of any property destroyed by order of the department ~~under this act~~, or pursuant to any rules ~~or orders~~ adopted by the department under this ~~act~~ chapter.

(11) ~~Require~~ require persons, firms, and corporations engaged in the production or handling of meat, ~~or meat food products~~, ~~or dairy products~~, or any by-products thereof, to furnish statistics of the quantity and cost of the food and food products produced or handled, and the name and address of persons supplying them any of the products."

Section 10. Section 46-211, R.C.M. 1947, is amended to read as follows:

"46-211. Adoption of rules. The department shall adopt and enforce rules for the inspection and tuberculin test of dairy cattle, or other animals, and for the inspection, test, treatment, or disposition of livestock affected with, or which may have been exposed to, infectious, contagious, communicable, or dangerous disease, and for the quarantines provided for in this ~~act~~ chapter."

Section 11. Section 46-212, R.C.M. 1947, is amended to read as follows:

"46-212. Establishment of livestock disease control area — entry into area — compulsory inspection area, when. (1) Upon receipt of a petition signed by not less than ~~seventy-five per cent (75%)~~ of the livestock owners of the species of animals to be inspected, tested, treated, or vaccinated, and representing not less than ~~fifty per cent (50%)~~ of such species in any school district, as determined from the permanent records of the board of county commissioners describing school district boundaries, of any county in the state of Montana, petitioning for the area control, treatment, prevention, or eradication of any dangerous disease of livestock within such school district, the Montana board of livestock is authorized and empowered to may establish such school district as a disease control area and to may enforce the inspection, test, treatment, or vaccination of all livestock of the species designated within such school district in accordance with the rules and regulations promulgated by the Montana department of livestock for the inspection, eradication, treatment, or vaccination of such livestock and to may reimburse the owners of livestock slaughtered by order of the Montana department of ~~livestock~~ or its authorized agent in accordance with the laws of Montana governing the payment of

such animal or animals.

(2) ~~Provided that in~~ In any circumscribed disease control area as established under this act, section by the Montana department of ~~livestock~~, no other livestock of the species designated by the Montana department of ~~livestock~~ to be inspected, tested, treated, or vaccinated, ~~shall may~~ enter the disease control area unless inspected, tested, treated, or vaccinated under the direction of the Montana department of ~~livestock~~ or are accompanied by a satisfactory health certificate or except under special permit and restrictions provided by the Montana department of ~~livestock~~.

(3) ~~Provided further that when seventy-five per cent~~ When ~~(75%)~~ or more of the school districts in any county in Montana are established under this act section by the Montana department of ~~livestock~~ as disease control areas, it becomes mandatory on the part of the remaining livestock owners in such county to submit their livestock of one or more species for inspection, test, treatment, or vaccination, as directed by the Montana department of ~~livestock~~.

Section 12. Section 46-217, R.C.M. 1947, is amended to read as follows:

"46-217. Authority of municipal corporations. This act chapter does not prevent the governing authority of a

municipal corporation from enacting or enforcing ordinances for the inspection of slaughterhouses, meat depots, meat markets, meat food products, creameries, butter or cheese factories, dairies, ~~and~~ or dairy products, located, sold, or offered for sale in the limits of the municipal corporation. An ordinance may not be enforced in conflict with the powers of this ~~act~~ chapter delegated to the department, and its officers, or agents."

Section 13. Section 46-218, R.C.M. 1947, is amended to read as follows:

"46-218. Classification of animals as to compensation for slaughter. Animals, slaughtered under the direction of the department by order of the board, ~~under this act~~, are divided into two classes for the purposes of compensation:

(1) Animals determined by the department to be affected with an incurable disease, which are destroyed by order of the board, are designated as animals of class 1, and unless otherwise provided each of the animals shall be paid for on the basis of ~~seventy-five per cent (75%)~~ of its appraised value. The county in which the animal was owned at the time it was determined to be affected with an incurable disease, is liable in part, as later provided, for an indemnity to be paid for the animal. The ownership and county are determined by an affidavit of the owner of the animal or his agent. Each animal directed to be destroyed

shall be appraised by a representative or an authorized agent of the department with the owner agreeing in writing as to the value of the animal. When appraised, due consideration shall be given to its breeding value as well as its dairy or meat value and the condition of the animal as to the disease and the present and probable effect of the disease on the animal. In the absence of an agreement, there shall be appointed three ~~(3)~~ competent, disinterested parties, one appointed by the department, one by the owner, and a third by the first two, to appraise each animal, ~~taking into consideration its breeding value as well as its dairy or meat value and the condition of the animal as to the disease and the present probable effect of the disease on the animal.~~ The judgment of the majority is the judgment of the appraisers and is binding on both parties as the final determination of indemnity to be paid for each animal. The total compensation of each group of appraisers is limited to ~~five dollars (\$5)~~ for the group appraisal, one-half ~~(1/2)~~ of which shall be paid by the department. The total amount of indemnity paid by the state and a county for an animal may not exceed the actual sound value of an animal of its class, and the total combined amount of indemnity paid for the animal by the state and a county may not exceed the sum of ~~one hundred dollars (\$100)~~ for a registered purebred animal or the sum of ~~fifty dollars (\$50)~~ for a

1 grade animal. Animals presented for appraisal as purebreds
2 shall be accompanied by their registration papers at the
3 time of appraisal or they shall be appraised as grades. If
4 purebreds are less than ~~three~~ (3) years old and not
5 registered, the department may grant a reasonable time for
6 their registration and presentation of their registration
7 papers to the appraiser. Registration papers shall accompany
8 the claim for indemnity.

9 (2) Animals of class 1 shall be paid for on the basis
10 of their full appraised value as determined in this section
11 if no evidence of incurable disease is disclosed by autopsy,
12 bacteriologic, serologic, microscopic, or other findings.
13 The total combined amount of indemnity paid by the state and
14 a county for an animal may not exceed the actual sound value
15 of an animal of its class. The total combined amount of
16 indemnity paid by the state and a county for the animal may
17 not exceed ~~one hundred dollars (\$100)~~ for a registered
18 purebred animal or ~~fifty dollars (\$50)~~ for a grade animal.

19 (3) Animals which are determined by the department to
20 be affected with or exposed to foot-and-mouth disease,
21 rinderpest, contagious pleura pneumonia, surra, or other
22 ~~infectious-contagious~~ infectious, contagious, communicable,
23 or dangerous disease, which is not of its nature necessarily
24 fatal, and are destroyed by order of the department as a
25 sanitary safeguard, are designated as animals of class 2 and

1 each animal shall be paid for on the basis of its full
2 appraised value. The appraised value shall be determined in
3 the manner set out in subsection (1) of this section. The
4 appraisal of the animals shall be based on the meat, dairy,
5 or breeding value of the animal, but where appraisal is
6 based on breeding value of the animal, no appraisal may
7 exceed three (3) times its meat or dairy value. The total
8 amount of indemnity paid by the state for an animal may not
9 exceed the actual sound value of an animal in its class,
10 ~~and no~~ no indemnity for a class 2 animal may be paid by a
11 county. In the case of destruction of an animal afflicted
12 with brucellosis (Bang's disease), no indemnity shall be
13 paid for the animal, unless the board, in its discretion,
14 determines the best interests of this state will be served
15 by payment of an indemnity. In this event, the board shall
16 set out standards of indemnity by rules, and may not pay in
17 excess of ~~one hundred dollars (\$100)~~ for a registered
18 purebred animal, or ~~fifty dollars (\$50)~~ for a grade animal.
19 In all cases where the federal government, or agency other
20 than the state, compensates the owner in whole or in part
21 for livestock destroyed as a sanitary safeguard, the amount
22 of compensation from the state shall be determined under
23 ~~section 46-229.~~

24 (4) Animals which are injured or killed while they are
25 being inspected or tested under an order of the department

1 or its agent, ~~and if the animals which~~ do not come within
 2 either class 1 or class 2, may be paid for at their full
 3 appraised value, if the claim for the animal is recommended
 4 for payment at a meeting of the ~~department~~ board. Where it
 5 is shown that the injury or death of the animal was not
 6 proximately due to the negligence of the owner or his agent,
 7 the whole claim, when approved, shall be paid out of
 8 department funds. The limit of indemnity for an animal paid
 9 for by the state may not exceed that fixed by this ~~act~~
 10 section for animals of class 2."

11 Section 14. Section 46-220, R.C.B. 1947, is amended to
 12 read as follows:

13 "46-220. Indemnity — from what funds paid. In payment
 14 for animals or property destroyed by order of the
 15 department, the state shall pay one-half ~~(1/2)~~ of the
 16 indemnity out of the money at the disposal of the
 17 department. The county liable in part for the indemnity, ~~as~~
 18 ~~determined by this act~~, shall pay one-half ~~(1/2)~~ of the
 19 total indemnity out of the general fund of the county."

20 Section 15. Section 46-224, R.C.B. 1947, is amended to
 21 read as follows:

22 "46-224. Examination and payment of claims. Claims
 23 against the state arising under this ~~act~~ chapter, if found
 24 correct, shall be processed and paid from funds of the
 25 department."

1 Section 16. Section 46-226, R.C.B. 1947, is amended to
 2 read as follows:

3 "46-226. Sale of condemned carcasses — disposal of
 4 proceeds. Where the carcass of an animal ordered destroyed
 5 under this ~~act~~ chapter is found, on official ~~post-mortem~~
 6 postmortem inspection, to be fit for human consumption, the
 7 owner shall receive the net proceeds from the sale of the
 8 carcass. The proceeds shall be deducted from his claim
 9 against the state and county for the slaughter. A
 10 representative of the department, may, when considered
 11 advisable or necessary or when it is desired by the owner,
 12 sell the carcass on terms he considers to be in the best
 13 interests of this state, and the net proceeds obtained from
 14 the sale shall be paid to the owner. This procedure does not
 15 invalidate the owner's claim for indemnity for any balance
 16 due him."

17 Section 17. Section 46-228, R.C.B. 1947, is amended to
 18 read as follows:

19 "46-228. Persons entitled to indemnity. (1) The owner
 20 of an animal or property destroyed under this ~~act~~, chapter
 21 is entitled to indemnity, except in the following cases:

22 ~~(1)(a) Animals~~ animals belonging to the United
 23 States;

24 ~~(2)(b) Animals~~ animals brought into this state which
 25 violate this ~~act~~, chapter or rules of the department;

~~(3)(c)~~ animals ~~animals~~ which the owner or claimant knew to be diseased, or had notice of the disease at the time they came into his possession;

~~(4)(d)~~ animals ~~animals~~ which had the disease for which they were slaughtered, or which were destroyed because of exposure to the disease, at the time of their arrival in this state. However, as a class 2 animal of the second class shipped into this state under department rules and accompanied by the proper certificate of health from a recognized state or federal veterinarian may be paid for when payment is authorized by the department.

~~(5)(e)~~ Animals ~~animals~~ which have not been in this state for at least ~~one hundred and twenty (120)~~ days before the discovery of the disease; however, class 2 animals ~~of the second class~~ which have not been in the state ~~one hundred and twenty (120)~~ days may be paid for when payment is authorized by the department;

~~(6)(f)~~ When when the owner or agent has not used reasonable diligence to prevent disease or exposure to disease;

~~(7)(g)~~ When when the owner or agent has not complied with the rules of the department with respect to animals condemned;

~~(8)~~ No compensation or indemnity will be paid for the destruction of livestock affected with tuberculosis, or

~~other infectious, contagious, communicable, or dangerous disease, unless the entire herd or band of affected livestock is under the supervision of the department for the eradication of the disease.~~

~~(9)(h)~~ When when animals condemned are not destroyed within ~~sixty (60)~~ days after they are determined to be affected with or exposed to a disease which requires them to be destroyed by order of the department.

(2) No compensation or indemnity will be paid for the destruction of livestock affected with tuberculosis or other infectious, contagious, communicable, or dangerous disease unless the entire herd or band of affected livestock is under the supervision of the department for the eradication of the disease."

Section 18. Section 46-230, R.C.M. 1947, is amended to read as follows:

"46-230. Expenses, how paid — lien and foreclosure. The expense of inspecting, testing, supervision of quarantine, supervision of dipping, supervision of disinfection, and supervision of other treatment of livestock by the department, ~~under this act,~~ and the sanitary inspection of dairies, packing houses, meat depots, slaughterhouses, milk depots, and other premises ~~under this act,~~ shall be paid for by the department. However, the owner of the livestock or property is liable for all expenses,

except the salary of the supervising officer, representing the department, when the owner, agent, or person in charge of the livestock or property has violated the rules of the department. These expenses are a lien on the livestock or other property, and the department may retain possession of the livestock until the charges and expenses are paid. The lien is not dependent on possession, and ~~the lien~~ may be foreclosed in the name of the agent of the department by sale of the stock, or as many as may be necessary to pay the sum of the costs, ~~by sale~~ at public auction, after ~~and ten~~ ~~(10)~~ days' notice by posting in three ~~(3)~~ public places in the county. The lien may also be foreclosed by an action in a court of competent jurisdiction against the owner of the livestock to recover the amount of charges and expenses."

Section 19. Section 46-232, R.C.M. 1947, is amended to read as follows:

"46-232. Licensing of milk plants and dairies selling milk or cream for public consumption. (1) It is unlawful for the following businesses to operate in this state without first obtaining a license from the department of livestock:

(a) ~~a~~ a dairy selling milk or cream for public consumption in the form in which it is originally produced;

(b) ~~Condensed~~ a condensed, evaporated, or powdered milk plant;

(c) ~~Fluid~~ a fluid milk plant. A fluid milk plant is a place where milk or cream is not produced but is purchased or collected and prepared for distribution to the consumer in liquid form ~~but is not produced at this place~~.

(2) A license expires on December 31 of the year issued. The department may, following the procedures in the Montana Administrative Procedure Act [~~82-4201 to 82-4225~~], deny, suspend, or revoke a license when it determines that a person to whom the license is issued has failed to comply with the rules of the department or has failed to conduct his establishment in a sanitary manner. All license fees collected shall be deposited into the general fund.

(3) The department may issue a restraining order prohibiting a dairy from selling or giving away milk or cream not produced or handled under the laws of this state, or the rules of the department. It is unlawful for a dairy, while restrained, to sell or give away for public consumption milk or cream produced or handled by the dairy, and it is also unlawful for a dairy products manufacturing plant, milk plant, or cream station to purchase or use the cream or milk from a dairy while the dairy is restrained.

(4) The following license fees are charged for licenses issued under this section:

(a) ~~Condensed~~ condensed, evaporated, or powdered milk factory, ~~fifty dollars (\$50)~~;

(b) ~~Fluid~~ fluid milk plant, ~~fifty dollars~~ ~~(\$50)~~;

(c) ~~Dairy dairy~~, ~~five dollars~~ ~~(\$5)~~.

(5) ~~A~~ a person violating this ~~act~~ section is guilty of a misdemeanor."

Section 20. Section 46-233, R.C.M. 1947, is amended to read as follows:

"46-233. Exceptions of certain producers of meats and dairy products. The owners or operators of slaughterhouses, packing houses, meat depots, dairies, creameries, butter factories, cheese factories, or other places of business engaged in the production, storage, or transportation of meats, meat foods, or dairy products, are not required to procure a license from the department of health and environmental sciences, ~~in so far~~ insofar as the business of production, storage, or transportation of these food products ~~are~~ is concerned. This ~~act~~ section does not limit the supervision or regulation of the sanitary condition of a restaurant, hotel, boardinghouse, or retail market, or the products sold or offered for sale thereat, by the department of health and environmental sciences, nor does this ~~act~~ section limit the duties imposed by law on the department of health and environmental sciences to make sanitary rules for the eradication or control of an epidemic of human disease which may exist in a community."

Section 21. Section 46-234, R.C.M. 1947, is amended to

read as follows:

"46-234. ~~Co-operation~~ Cooperation by public officers. The ~~state~~ department of health and environmental sciences, ~~the board of health and environmental sciences,~~ and local boards of health of a county, city, or town, ~~or village~~ shall cooperate with and assist the department of livestock in matters which relate to the execution of its sanitary powers regarding livestock and their food products under this ~~act~~, chapter in the manner which the department of livestock prescribes, either by general rule or direct order."

Section 22. Section 46-235, R.C.M. 1947, is amended to read as follows:

"46-235. Slaughterhouse license — fees and renewals. It is unlawful for a person, firm, or corporation to maintain or conduct a slaughterhouse, meat packing house, or meat depot in this state without having a license issued by the department. The annual fee for ~~a license~~ license issued under this section is ~~one dollar~~ ~~(\$1)~~ and shall be paid into the general fund. All licenses expire on December 31, of the year in which they are issued, and shall be renewed by the department on request of the licensee. However, when the department finds that the place for which the license is issued is not conducted in accordance with the rules and orders of the board, made under ~~this act~~ 46-208, then the

1 department shall revoke the license and may not renew it
2 until the place is in a sanitary condition in accordance
3 with department rules."

4 Section 23. Section 46-238, R.C.M. 1947, is amended to
5 read as follows:

6 "46-238. Penalty for violation ~~of act~~. Any person,
7 persons, firm, or corporation violating any provision of
8 this ~~act~~ chapter, or the rule, ~~regulation~~, or order
9 promulgated by authority of same, shall be guilty of a
10 misdemeanor, ~~violations~~ Violations of this ~~act~~ chapter
11 shall be tried without undue delay in any court of competent
12 jurisdiction."

13 Section 24. Section 46-239, R.C.M. 1947, is amended to
14 read as follows:

15 "46-239. ~~Same~~ ~~civil~~ Civil liability. A person,
16 firm, or corporation who violates this ~~act~~ chapter or rules
17 or orders of the department is liable for damages sustained
18 by a person because of the violation. The damages may be
19 recovered by the person in a civil action in a court of
20 competent jurisdiction."

21 Section 25. Section 46-243, R.C.M. 1947, is amended to
22 read as follows:

23 "46-243. Personal liability ~~of~~ members and officers
24 of department. No member of the department is personally
25 liable for damage resulting from his official acts or

1 decisions under this ~~act~~, chapter or a rule, or order
2 adopted under this ~~act~~ chapter, unless it is for his own
3 willful wrong or gross negligence."

4 Section 26. Section 46-248, R.C.M. 1947, is amended to
5 read as follows:

6 "46-248. Penalty ~~for violation of act~~. Any person
7 guilty of violating this ~~act~~ shall be ~~46-247 is~~ guilty of a
8 misdemeanor and upon conviction ~~shall be~~ is punishable by a
9 fine not exceeding ~~five hundred dollars~~, \$500 or by
10 imprisonment in the county jail not exceeding ~~one~~ 1 year, or
11 by both fine and imprisonment."

12 Section 27. Section 46-605, R.C.M. 1947, is amended to
13 read as follows:

14 "46-605. Designation of years for ~~re-recording~~
15 rerecording brands. Each ~~tenth~~ 10th year after 1921 is the
16 year for ~~re-recording~~ rerecording artificial marks and
17 brands used to distinguish and identify the ownership of
18 domestic animals and livestock. The department shall, on the
19 application of a person, firm, or corporation, or the
20 transferee of the person, firm, or corporation, made in a
21 year which is a year for ~~re-recording~~ rerecording marks and
22 brands, ~~to re-record~~ rerecord a mark or brand which at the
23 time of the application stands of record in the department
24 in the name of the person, firm, or corporation. A mark or
25 brand which was not originally recorded or ~~re-recorded~~

1 rerecorded in the name of the person, firm, or corporation,
2 during the ~~re-recording~~ rerecording year last preceding the
3 date when the application is filed, or originally recorded
4 in the name of the person, firm, or corporation, or his or
5 its predecessor or predecessors in interest between the time
6 of the application and the ~~re-recording~~ rerecording year
7 last preceding the application, is not of record in the
8 department."

9 Section 28. Section 46-808, R.C.M. 1947, is amended to
10 read as follows:

11 "46-808. Removal of livestock from state without
12 inspection — penalty — exception. Any person, other than
13 the owner, or his agent or employee, who, without consent of
14 the owner, removes or causes to be removed from this state
15 any cow, ox, bull, stag, calf, steer, heifer, horse, mule,
16 mare, colt, foal, or filly, without having the same
17 inspected where such inspection is required by law ~~shall be~~
18 is guilty of a felony and shall be punished by a fine of not
19 more than ~~two thousand dollars (\$2,000.00)~~, ~~or~~ by
20 imprisonment in the state prison for a term of not more than
21 ~~three (3) years~~, or by both such fine and imprisonment;
22 ~~provided, however, that the~~ The provisions of this section
23 shall do not apply to any person who removes from this state
24 any animal specified by this section, for the purpose of
25 obtaining emergency treatment for such animal by a licensed

1 veterinarian, ~~excluded from this act.~~"

2 Section 29. Section 46-903, R.C.M. 1947, is amended to
3 read as follows:

4 "46-903. Quarantine of diseased animals — ownership
5 of animals to be determined — proceeds from sale of stock
6 of unknown owner. If the livestock inspector at a sale ~~find~~
7 finds any livestock afflicted with an infectious or
8 contagious disease, he shall immediately take possession of
9 the livestock and place them in quarantine, to be disposed
10 of as directed by the department. If there is any question
11 respecting the ownership of livestock sold, the livestock
12 inspector may take possession of the livestock. The
13 livestock inspector shall notify the person in charge of the
14 market and conducting the sales, and the person who has
15 purchased the livestock at the sale, within a reasonable
16 time. Where livestock is sold, the ownership of which is
17 not known or cannot be determined by the livestock
18 inspector, they may be sold as strays, and the net proceeds
19 derived from the sale shall be ~~sent to the department to be~~
20 ~~held and kept, together with a complete description of the~~
21 ~~livestock and the brands of the livestock. The money shall~~
22 ~~be held and retained by the department for the use and~~
23 ~~benefit of the owner of the livestock and paid to the owner~~
24 ~~when ownership has been satisfactorily determined~~ handled in
25 the same manner as provided in 46-918. If the proceeds of

the sale sent to the department are not claimed by the lawful owner of the livestock within ~~two~~ (2) years from the date of the receipt of the proceeds, the money shall be held and disposed as provided in section 46-904 become state property and be placed to the credit of the earmarked revenue fund for the use of the department."

Section 30. Section 46-906, R.C.M. 1947, is amended to read as follows:

"46-906. Definitions. Unless the context requires otherwise, in this act chapter:

(1) "Livestock livestock" means and includes horses, mules, cattle, swine, sheep, and goats;

(2) "~~Person~~ person" means a person, ~~copartnership~~ partnership, association, or corporation;

(3) "~~Board~~ board" means the board of livestock provided for in section 82A-1303;

(4) "~~Certificate~~ certificate" means the certificate of public convenience and necessity authorized to be issued under this act chapter;

(5) "~~Commission~~ commission basis" means the compensation or charge imposed on the owner of livestock for the services rendered the owner by the operator of the livestock market;

(6) "Livestock livestock market" means a place where a person assembles livestock for either private or public sale

by him and the service is compensated for by the owner, on a commission basis or otherwise, except:

(a) ~~a~~ a place used solely for a dispersal sale of the livestock of a farmer, dairyman, livestock breeder, or feeder who is discontinuing business and no other livestock is sold there or offered for sale;

(b) ~~a~~ a farm, ranch, or place where livestock either raised or kept thereon for the grazing season or for fattening is sold, and no other livestock is brought there for sale or offered for sale;

(c) ~~The~~ the premises of a butcher, packer, or processor who ~~received~~ receives animals exclusively for immediate slaughter;

(d) ~~The~~ the premises of a person engaged in the raising of livestock for breeding purposes only, who limits his sale to livestock of his own production;

(e) ~~a~~ a place where a breeder or an association of breeders of livestock of any class assemble and offer for sale and sell under his or their own management any livestock, when the breeder or association of breeders assumes all responsibility for the sale and the title of livestock sold;

(7) "~~Off-premise~~ off-premises sale" means the sale of livestock by a livestock market leased for which a certificate has been issued under this chapter at a place

other than the one at which the ~~licensee~~ livestock market conducts ~~his~~ its usual livestock market operation;

(8) "~~Test~~ test station sale" means the sale of livestock from a place where livestock ~~are~~ is taken to measure rates of gain under uniform feeding conditions, when that place is not owned by the owner of the livestock."

Section 31. Section 46-906.1, R.C.M. 1947, is amended to read as follows:

"46-906.1. Board regulation of certain types of nonmarket sales of livestock. (1) ~~Any~~ Each person, not a livestock market operator ~~licensed~~ authorized under this chapter, conducting the sale of livestock in a breed sale, ~~or~~ a breed association sale, or at a test station sale, except when all of the livestock are ~~his~~ and are being sold from his own place, shall obtain approval from the board before conducting the sale.

(2) The board, as conditions to granting approval, ~~may~~ require:

(a) the names and addresses of those conducting the sale;

(b) the date, time, and place where the sale will be conducted;

(c) a detailed statement of the assets and liabilities of the persons conducting the sale;

(d) the establishment of a custodial account into

which all moneys received as purchase for the sale of livestock must be deposited;

(e) the posting of reasonable bond, in an amount determined by the board;

(f) the commissions or charges proposed to be imposed on the owners of livestock for services rendered to them associated with the sale;

(g) a guarantee to pay all consignors in full within a reasonable time as set by the board;

(h) such other information as the board considers necessary."

Section 32. Section 46-907, R.C.M. 1947, is amended to read as follows:

"46-907. Regulation of livestock markets. The board shall:

(1) ~~Supervise~~ supervise and regulate livestock markets in this state;

(2) regulate the properties, facilities, operations, services, and practices of all livestock markets;

(3) supervise and regulate livestock markets in all matters affecting the relationship between the operators and owners of livestock, and between the operators and purchasers of livestock, at the markets;

(4) prescribe by general order, or otherwise, rules in conformity with this ~~act~~ chapter applicable to all livestock

markets, and not in conflict with the laws of the United States or ~~rules and~~ regulations of the United States department of agriculture or other federal agencies."

Section 33. Section 46-907.1, R.C.M. 1947, is amended to read as follows:

"46-907.1. Occasional ~~off-premise~~ off-premises sales may be authorized. (1) The board may authorize occasional ~~off-premise~~ off-premises sales by ~~licensed~~ authorized livestock markets and may establish the conditions under which approval for an ~~off-premise~~ off-premises sale may be granted, including any change in bonding requirements the board considers necessary.

(2) No livestock market ~~licensed~~ for which a certificate has been issued under this chapter may conduct an ~~off-premise~~ off-premises sale without obtaining prior approval of the board."

Section 34. Section 46-908, R.C.M. 1947, is amended to read as follows:

"46-908. Certificate to operate livestock market required -- application, contents of -- fee. (1) A person may not operate a livestock market in this state without first obtaining from the board, under this ~~act~~ chapter, a certificate declaring that public convenience and necessity require the operation. A person making application for a certificate shall do so in writing, verified by the

applicant, and specifying the following:

~~(1) (a)~~ The ~~the~~ name and address of the applicant, and the names and addresses of its officers, if any;

~~(2) (b)~~ The ~~the~~ place where the applicant proposes to operate a livestock market;

~~(3) (c)~~ A ~~a~~ complete and detailed description of the property and facilities proposed to be used in connection with the livestock market;

~~(4) (d)~~ The ~~the~~ commissions or charges applicant proposes to impose on the owners of livestock for services rendered to them by applicant in the operation of the livestock market;

~~(5) (e)~~ A ~~a~~ detailed statement showing the assets and liabilities of the applicant;

~~(6) (f)~~ The ~~the~~ location of other livestock markets within a radius of ~~two hundred~~ (200) miles of the proposed livestock market, and the names and addresses of the operators thereof;

~~(7) (g)~~ A ~~a~~ detailed statement of the facts upon which the applicant relies showing public convenience and necessity for the livestock market, including the anticipated revenue from inspection fees that may be derived therefrom by ~~this~~ the state;

~~(8) (h)~~ Any ~~any~~ additional information the board may require.

1 ~~(9)~~ (2) The application shall be accompanied by a fee
2 of ~~one hundred dollars (\$100)~~, which shall also be
3 considered the first annual fee if the application is
4 granted; however, the annual fee shall be paid on the
5 following May 1 and each year thereafter, as provided
6 herein."

7 Section 35. Section 46-910, R.C.M. 1947, is amended to
8 read as follows:

9 "46-910. Livestock markets licensed — grounds of
10 discontinuance. If after a hearing in the manner provided in
11 this ~~act~~ chapter it appears to the board that a livestock
12 market licensed for which a certificate has been issued
13 under this ~~act~~ chapter has, for a period of ~~two~~ (2)
14 successive years, failed to provide the minimum revenue to
15 the state as provided in this ~~act~~ chapter, the livestock
16 market may be discontinued by order of the board."

17 Section 36. Section 46-911, R.C.M. 1947, is amended to
18 read as follows:

19 "46-911. ~~License fee~~ Fee. A person operating a
20 livestock market in this state shall pay on May 1, annually,
21 a license fee of ~~one hundred dollars (\$100)~~ to the board.
22 All fees under this ~~act~~ chapter shall be paid into the state
23 treasury, and placed by the state treasurer to the credit of
24 the earmarked revenue fund for the use of the board."

25 Section 37. Section 46-912, R.C.M. 1947, is amended to

1 read as follows:

2 "46-912. Bond required — conditions. (1) Every person
3 operating a livestock market in this state shall provide a
4 bond in favor of this state, upon a form and with surety to
5 be approved by the board, in the minimum penal sum of ~~ten~~
6 ~~thousand dollars (\$10,000)~~ or such greater sum as the board
7 may determine, conditioned upon:

8 ~~(1)(a)~~ (a) the payment immediately upon the sale of the
9 livestock of all money received, less reasonable expenses
10 and commissions, by the ~~licensee and operator of the~~
11 livestock market to the rightful owner of livestock so
12 consigned and delivered to the ~~licensee~~ it for sale;

13 ~~(2)(b)~~ (b) the payment of the minimum fees as provided by
14 section 46-909; and,

15 ~~(3)(c)~~ (c) a full compliance with this ~~act~~ chapter,
16 including all rules adopted under this ~~act~~ chapter.

17 (2) When approved the bond shall be filed with the
18 board.

19 (3) Actions of law may be brought in the name of the
20 state upon the bond for the use and benefit of a person who
21 suffers loss or damage from violations thereof, and may be
22 brought by the person suffering loss or damage in the county
23 of his residence."

24 Section 38. Section 46-913, R.C.M. 1947, is amended to
25 read as follows:

"46-913. Records kept by licensees livestock markets. Each licensee livestock market shall keep accounts, records, and memoranda, and shall make reports, which the board requires, and the board and its authorized agents and employees shall at all times have access to the accounts, records, and memoranda for inspection and examination."

Section 39. Section 46-915, R.C.M. 1947, is amended to read as follows:

"46-915. Cancellation or suspension of certificates — grounds. ~~Finding by the board that a licensee~~ The board may cancel or suspend the certificate of an operator of a livestock market if it finds that the operator has:

(a)(1) ~~has~~ been guilty of fraud or misrepresentation as to the titles, charges, number, brands, weights, proceeds of sale, or ownership of livestock;

(b)(2) ~~has~~ violated any of the provisions of this act chapter;

(c)(3) ~~has~~ violated any of the rules adopted and published by the board;

(d)(4) ~~has~~ violated sections 46-801 through 46-806; or,

(e)(5) ~~has~~ violated any of the conditions of the bond, as provided by this act chapter, ~~is sufficient cause for the cancellation or suspension of the certificate of the offending operator of the livestock market."~~

Section 40. Section 46-916, R.C.M. 1947, is amended to read as follows:

"46-916. Investigation of actions of licensees livestock markets — hearing of complaints — additional powers and duties of members of board or agents — witnesses. (1) ~~The~~ When considered necessary, the board or any member or agent of the board, may upon a motion, or upon a verified complaint in writing ~~of a person, when considered necessary, may~~ investigate the actions of a licensee livestock market and, if found proper to do so, shall file a complaint against the licensee livestock market with the board. The complaint shall be set for hearing before the board upon ~~ten~~ {10} days' notice served upon the licensee livestock market.

(2) Any investigation, inquiry, or hearing which the board may undertake or hold, under this act, chapter may be undertaken or held by or before any board member or by or before any agent or examiner of the board designated for that purpose by the board. A finding, order, or decision made by a board member or agent or examiner of the board so designated, pursuant to the investigation, inquiry, or hearing, when approved and confirmed by the board and ordered filed in its office, is considered the finding, order, or decision of the board. An agent or examiner of the board may administer oaths, examine witnesses, and receive

1 evidence."

2 Section 41. Section 46-917, R.C.M. 1947, is amended to
3 read as follows:

4 "46-917. Appeal by licensee livestock market or
5 applicant for certificate — bond — procedure. In appeal of
6 a decision of the board for refusing to grant an application
7 for a certificate or suspending or revoking a certificate of
8 a licensee livestock market shall be taken to the district
9 court of the county in which the proposed livestock market
10 is to be located or in which the licensee authorized
11 livestock market has ~~his~~ its principal place of business.
12 The appellant shall file a bond with the clerk of the
13 district court in the sum of ~~three hundred dollars~~ (\$300) to
14 be approved by the judge of the court, conditioned to pay
15 all costs that may be awarded against the appellant in the
16 event of an adverse decision or the decision of the board
17 being affirmed. The cost of preparing transcripts shall be
18 paid by appellant. In case of suspension or revocation of a
19 certificate, the filing of the notice and bond shall stay
20 the order of the board until the final determination of the
21 appeal. If the appellant fails to perfect ~~his~~ the appeal the
22 stay shall automatically terminate."

23 Section 42. Section 46-920, R.C.M. 1947, is amended to
24 read as follows:

25 "46-920. Penalties ~~for violating act~~. A person who

1 violates any provisions of this ~~act~~ chapter or rules adopted
2 by the board under this ~~act~~, chapter is guilty of a
3 misdemeanor and upon conviction shall be fined not less than
4 ~~one hundred dollars~~ (\$100) ~~nor~~ or more than ~~six hundred~~
5 ~~dollars~~ (\$600), ~~or~~ imprisoned in the county jail not less
6 than ~~thirty~~ (30) days ~~nor~~ or more than ~~six~~ (6) months, or
7 both fined and imprisoned. A person who has been convicted
8 of a violation of this ~~act~~ chapter and who subsequently is
9 found guilty of ~~a~~ another violation of this ~~act~~ chapter
10 shall be fined not less than ~~two hundred dollars~~ (\$200) ~~nor~~
11 or more than ~~one thousand dollars~~ (\$1,000), ~~or~~ imprisoned in
12 the county jail for not less than ~~three~~ (3) months ~~nor~~ or
13 more than ~~six~~ (6) months, or both fined and imprisoned. A
14 second conviction requires the board to suspend or cancel
15 the certificate of the person without a hearing, and the
16 person may not again be granted a certificate for a period
17 of ~~one~~ (1) year."

18 Section 43. Section 46-921, R.C.M. 1947, is amended to
19 read as follows:

20 "46-921. Jurisdiction of district courts. The district
21 courts shall have original jurisdiction in all criminal
22 actions for violations of the provisions of this ~~act~~
23 chapter."

24 Section 44. Section 46-1011, R.C.M. 1947, is amended
25 to read as follows:

"46-1011. Powers and duties of inspectors outside of state. (1) The stock inspector appointed to inspect Montana cattle at a cattle market outside this state shall be commissioned by the department, and may inspect cattle that come from this state to the market where he is located. He has the same power as stock inspectors in this state to inspect, and seize, and sell stock which he has reason to believe is stolen, or on which brands have been altered or obliterated. He may take the proceeds of an animal in dispute, or bearing altered or burned brands, remitting the proceeds to the department, which shall hold the proceeds pending a decision on ownership.

(2) The stock inspector shall, on receipt of the certified lists mentioned in ~~sections 46-1009~~ 46-1008 and 46-1010, make an inspection of the cattle listed, and if, on comparison of the list with his own inspection, he finds a difference or discrepancy, he shall make a second inspection of any animal for which the two tallies do not agree, clipping the animal when necessary to determine, accurately and definitely, which inspection or tally is correct. He shall immediately make an inspection report to the department, stating in detail where the discrepancies with the loading tally exist, and calling special attention to his own inspection of the animal. He shall, in his own report, make mention of any animal, with the brands on the

animal, which were taken out by the shipper in charge of the stock while in transit between the original loading point and point of final destination. These reports shall be entered in a suitably bound book and are at all times open to public inspection."

Section 45. Section 46-1101.2, R.C.M. 1947, is amended to read as follows:

"46-1101.2. Hide certificate — identification. (1) A seller of an animal hide shall obtain a hide certificate from the person receiving the hide. The department shall prescribe the form of the certificate which shall include the marks and brands on each hide. The party receiving the hide must designate where it will be kept for ~~thirty~~ (30) days following delivery. The certificate must be signed by the seller or his agent and the person receiving the hide.

(2) Hide certificates, tags, and glue shall be furnished to the sheriff of each county by the department at cost and by the sheriff to any person requiring the certificates, tags, and glue. Only those certificates, tags, and glue distributed by the department may lawfully be used under this act. The original certificate shall be filed with the sheriff of the county of the seller's residence. One ~~(1)~~ copy shall be sent by the party receiving the hide to the department, one ~~(1)~~ retained by the seller, and one ~~(1)~~ by the hide buyer. On reasonable notice, a sheriff, deputy

sheriff, state stock inspector, or deputy state stock inspector may inspect the hide certificate copy of the seller or buyer. The department shall prescribe an identification tag to be affixed to each hide by the person receiving the hide when it is delivered. ~~Hide dealers and buyers~~ If hides are purchased outside the county of the seller's residence, the hide dealer or buyer must also mail the original a copy of the hide certificate to the sheriff of each county in which hides are purchased within ~~five~~ (5) days after purchase."

Section 46. Section 46-1103, R.C.M. 1947, is amended to read as follows:

"46-1103. Mutilation or concealment of hides deemed a felony. Every person who willfully or maliciously mutilates, destroys, or conceals the hide ~~from~~ of any horse, mare, colt, mule, jack, ~~jecket~~ jenny, bull, steer, cow, calf, goat, hog, or sheep with intent to or for the purpose of removing evidence of ownership of such hide or the animal from which ~~said the~~ hide was removed, is guilty of a felony, and punishable as hereinafter provided."

Section 47. Section 46-1104, R.C.M. 1947, is amended to read as follows:

"46-1104. Sufficiency of pleading and proof in criminal prosecution ~~under act~~. In any prosecution for the violation of the provisions of this act, it ~~shall~~ is not be

necessary for the state to allege in the complaint or information ~~or proof~~, the ownership of the hide, or of the animal from which ~~said the~~ hide was removed, but it ~~shall be~~ is sufficient to allege in the complaint or information ~~or proof~~ that the owner of ~~said the~~ hide or of the animal from which ~~said the~~ hide was removed, is unknown and not the property of the defendant."

Section 48. Section 46-1107, R.C.M. 1947, is amended to read as follows:

"46-1107. Hide dealer or ~~buyers~~ buyer's license fee — disposition of proceeds. Before engaging in business in this state, a hide dealer or buyer shall ~~pay to obtain a license from~~ the department, a ~~The annual~~ license fee of ~~five dollars is~~ (5) for each established place of business at which the hide dealer or buyer purchases or deals in hides, ~~before engaging in or conducting this business in this state.~~ The license continues in force for that calendar year. The moneys collected from the licenses shall be placed in the earmarked revenue fund ~~of for~~ the department. The license must be renewed January 1 of each year."

Section 49. Section 46-1107.1, R.C.M. 1947, is amended to read as follows:

"46-1107.1. Acting without a license — revocation. (1) Any person acting as a hide dealer or buyer without a license as required by this act is guilty of a misdemeanor."

(2) Upon receipt of a certified copy of the judgment of conviction of any hide dealer or buyer for any violation of this act, the ~~livestock commission~~ department may revoke the license of such person for ~~one~~ 1 year commencing on the date of the licensee's conviction."

Section 50. Section 46-1406, R.C.M. 1947, is amended to read as follows:

"46-1406. Procedure when owner unknown or not resident of state — sale of wire removed. If there ~~be~~ is no known owner of such wire within the state, or if such owner ~~be~~ is unknown to the board of county commissioners, ~~said the~~ the board ~~shall have authority to~~ may collect and remove ~~said the~~ the wire at the expense of the county. All such wire or other fencing as in the opinion of the board of county commissioners can be sold at a price sufficient to cover at least the expense of removal and sale, shall be sold by the county commissioners in the manner ~~now~~ provided by law for the sale of county property, except that notice of such sale need be published only once and need be given only ~~ten~~ 10 days before such sale."

Section 51. Section 46-1410, R.C.M. 1947, is amended to read as follows:

"46-1410. Stock trespassing may be retained. (1) If an animal breaks into an inclosure surrounded by a legal fence, or is wrongfully on the premises of another, the

owner or occupant of the inclosure or premises may take into his possession the trespassing animal, and keep the animal until all damages, together with reasonable charges for keeping and feeding the animal, are paid. The person who takes the animal into his possession shall, within ~~seventy-two (72)~~ hours after he takes possession, give written notice to the owner or person in charge of the animal, stating that he has taken the animal. The notice shall also give the date of the taking, the description of the animal taken, including marks and brands, if any, the amount of damages claimed, ~~and~~ the charge per head per day for caring for and feeding the animal, and ~~shall describe the description~~, either by legal subdivisions or other general description, of the location of the premises on which the ~~animals are~~ animal is held. In all cases a copy of the notice shall also be posted at a point where the ~~stock animal~~ was taken.

(2) The notice shall be given to the owner or person in charge only when the owner or person in charge of the animal is known to the person taking the animal and resides within ~~twenty-five (25)~~ miles of the premises on which the ~~animals have been~~ animal was taken. If the owner or person in charge of the animal resides more than ~~twenty-five (25)~~ miles from the place of the taking, the notice shall be mailed to him, ~~and in, In~~ this case, ~~and also or~~ if the

owner is unknown, a similar notice shall be mailed to the department of livestock and the sheriff of the county in which the ~~animals have~~ animal has been taken. On receipt of the notice, the sheriff shall post a copy of the notice at the courthouse and shall send by ~~registered~~ certified mail a copy of it to the owner of the stock, if known to him. If unknown to him, the sheriff shall send a copy of the notice to the nearest state livestock inspector.

(3) If the parties within ~~five~~ (5) days thereafter do not agree to the amount of damages, the ~~liea~~ claimant must within ~~ten~~ (10) days thereafter institute a civil action to ~~foreclose his lien~~ collect his claim in a court of competent jurisdiction. Pending the outcome of the suit, the person taking the stock may, at the expense of the owner, retain a sufficient ~~amount~~ number of stock ~~animals~~ to cover the amount of damages claimed by him. The defendant may, after the institution of the action, on filing a bond executed by two (2) or more sureties and approved by the court, in double the sum sued for, conditioned ~~for~~ upon the payment to the plaintiff of all sums, including costs that may be recovered by the plaintiff, have all livestock returned to him, ~~and the person~~. The claimant is liable to the owner for any loss or injury to the stock occurring through his fault or neglect. If the ~~person taking the stock~~ claimant fails to recover in the action a sum equal to that offered him by

the owner of the stock, the ~~former~~ claimant bears the expense of keeping and feeding the stock while in his possession.

(4) A person who takes or rescues an animal from the possession of the person taking the animal, without his consent, is guilty of a misdemeanor and shall be fined not less than ~~one hundred dollars~~ (\$100) ~~nor~~ or more than ~~five hundred dollars~~ (\$500)."

Section 52. Section 46-1708, R.C.M. 1947, is amended to read as follows:

"46-1708. Declaration of animals running at large as nuisance -- abatement. Any such animal so running at large ~~shall be, and it is hereby declared to be,~~ is a public nuisance, which, in addition to the means and proceedings prescribed by this act for its abatement and removal, may be abated and removed by the means and proceedings ~~now, or~~ hereafter to be, provided by law for the abatement or removal of public nuisances."

Section 53. Section 46-1717, R.C.M. 1947, is amended to read as follows:

"46-1717. Female breeding cattle, purebred bull to accompany. (1) Any person, ~~or~~ persons, firm, company, or corporation allowing or permitting female breeding cattle to run at large upon the public ranges or national forest reserves in the state of Montana must place upon ~~said~~ the

range or national forest reserve one purebred graded bull of a recognized beef type, not less than ~~fifteen~~ (15) months ~~nor or~~ more than ~~eight~~ (8) years of age, for every ~~thirty~~ (30) head of female breeding cattle, pastured upon such range or national forest reserve; ~~provided, however, that~~ ~~any, any~~ two (2) or more such users of the public range or national forest reserve may join together in furnishing such bull when the aggregate number of female breeding cattle turned loose upon the same range or national forest reserve by such two (2) or more users thereof does not exceed ~~thirty~~ (30) head.

(2) A purebred bull as contemplated by this act must be a bull having a registration certificate from the breeding association of its particular breed. A graded bull, as defined in this act, shall be ~~one~~ a purebred bull selected by a committee of permittees."

Section 54. Section 46-1802, R.C.M. 1947, is amended to read as follows:

"46-1802. Abandoned horses on public range declared public nuisance subject to condemnation — right of owner. It ~~shall be~~ is unlawful for any person ~~to suffer or permit~~ any abandoned horse to run at large owning or having control of any horse to abandon the horse upon the open range in the state of Montana, and such horses so running at large upon the open range in the state are ~~hereby declared to be~~ a

public nuisance and a public menace, and are ~~hereby~~ condemned, subject to the right of the owner of any such abandoned horse to reclaim the same ~~as and~~ under the conditions hereinafter provided."

Section 55. Section 46-2412, R.C.M. 1947, is amended to read as follows:

"46-2412. Disposal of hides — inspection — filing of dead or fallen animal record. When a licensed renderer or his agent disposes of the hides from dead or fallen animals, the hides shall be handled and inspected for marks and brands in conformity with Title 46, chapter 11. The sheriff, deputy sheriff, person designated by the board of county commissioners, or the agent of the department who makes the inspection for marks and brands in conformity with Title 46, chapter ~~26~~ 11, shall complete the original dead or fallen animal record which accompanies the hide by inserting his inspector's tag number. He shall file the completed original dead or fallen animal record without cost in the office of the county clerk and recorder, together with the duplicate certificate of inspection required to be filed under Title 46, chapter 11."

Section 56. Section 46-3001, R.C.M. 1947, is amended to read as follows:

"46-3001. Dogging livestock. Any person, who ~~shall~~ permit permits or ~~direct~~ directs any dog owned by ~~them~~, him

1 or in ~~their~~ his possession ~~or in the possession of any~~
 2 ~~employer~~ to chase or run any cattle or other livestock, of
 3 which he is not the owner or the person in charge, upon the
 4 open range, or government lands or away from any watering
 5 place upon the open range, ~~shall be~~ is guilty of a
 6 misdemeanor and ~~shall be~~ punishable by a fine of not more
 7 than ~~fifty dollars~~ \$50."

8 Section 57. Section 46-3007, R.C.M. 1947, is amended
 9 to read as follows:

10 "46-3007. Stolen livestock — seizure and confiscating
 11 of vehicle used to transport — service of process. Service
 12 of process in ~~such a~~ proceeding for confiscation of such
 13 vehicle shall conform as far as practicable with the
 14 provisions of ~~sections 93-3007 to 93-3015, both inclusive,~~
 15 the Montana rules of civil procedure, provided, that ~~in so~~
 16 ~~far~~ insofar as the proceeding against the vehicle is
 17 concerned no copy of the summons or complaint need be mailed
 18 ~~and no showing need be made under the provisions of said~~
 19 ~~section 93-3013,~~ and the service shall be complete upon
 20 publication."

21 Section 58. Section 82A-406.1, R.C.M. 1947, is amended
 22 to read as follows:

23 "82A-406.1. Intent of act. ~~It is the intent of this~~
 24 ~~act to place jurisdiction~~ Jurisdiction over milk hauling
 25 rates from producer to plant is in the department of

1 business regulation and jurisdiction over such rates among
 2 plants is in the board of milk control."

3 Section 59. Repealer. Sections 3-2445, 3-2446, 46-904,
 4 46-905, and 46-1201 through 46-1204, R.C.M. 1947, are
 5 repealed.

-End-

January 10, 1977

Mr. Pete Jackson, MACD, in response to the committee, stated that the soil conservation districts were originally set up for agricultural purposes, but that the subdivision also needs it to. He said a member of the district must be on the County Planning Board.

This bill will be taken up again at the next meeting for purposes of amendments.

CONSIDERATION OF SENATE BILL 14: This is the bill dealing with the recodification of laws relating to livestock. Dave Cogley, staff attorney from the Legislative Council was present to give a summary to the committee on the changes that were made. Attached is his summary #2. He said the Department of Livestock has suggested some amendments, a copy of which is attached(#3).

Charles Brown, from the Department of Livestock, said they have checked over the bill and that the changes that were made are quite helpful and with the amendments they would support the bill.

DISPOSITION OF SENATE BILL 14: Senator Aber moved that the amendments DO PASS. Seconded by Senator Dover. Motion carried unanimously.

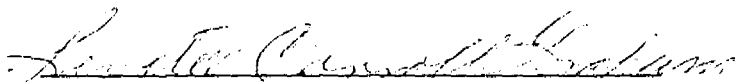
Senator Kolstad moved that Senate Bill 14 DO PASS AS AMENDED. Seconded by Senator Jegeson. Motion carried unanimously.

CONSIDERATION OF SENATE BILL 19: This bill deals with the recodification of the laws relating to agriculture. Dave Cogley again gave a summary of the changes that had been made. A copy of which is attached (#4).

Mr. Eldon Fastrup, from the Department of Agriculture, stated they had no objections to the bill and supported it.

DISPOSITION OF SENATE BILL 19: Senator Manley moved that Senate Bill 19 DO PASS. Seconded by Senator Aber. Motion carried unanimously.

There being no further business the meeting was adjourned.


SENATOR CARROLL GRAHAM, CHAIRMAN

MINUTES OF THE MEETING OF
HOUSE AGRICULTURE, LIVESTOCK & IRRIGATION COMMITTEE
MONTANA HOUSE OF REPRESENTATIVES

January 25, 1977
4:15 p.m.
Rm. 434
State Capitol Bldg.

Chairman Day called the meeting to order with all members present except, Representative Brand.

Representative Ellerd, chief sponsor of HB 172, and HB 240, explained that these two bills were identical bills except for the word, "and". He requested that the committee except HB 240, and eliminate HB 172. He continued to explain that HB 240, would amend the livestock auction market law by removing the requirement that markets pay at least 75% of the cost of livestock inspection services provided at the market by the Department of Livestock. The inspection services at the market have not been raised since 1953. This law has only been enforced one time since the law was passed. This bill would eliminate a law which has not been enforced.

Les Graham, Department of Livestock, was present to answer questions, but took no position on the bill, as a proponent or opponent. He stated that the law was not enforced by the department and he didn't feel that they could enforce it, or would enforce it in the future.

Representative Ellerd closed stating this has not been a problem up until the last few years and since it was not enforced, recommended a do pass consideration on HB 240.

Representative Gunderson raised some questions about HB 240. He asked how much the livestock inspectors were paid, at the market? The reply was 20¢ per head, coming in and 10¢ per head, going out. This money goes to the Department of Livestock. Representative Gunderson then asked why the department didn't oppose this bill if they were in as serious financial problem as they had stated previously? Mr. Graham replied that they didn't enforce the law, so there was no objection to omitting it. He then asked why they didn't enforce the law? The reply was that they could force some small markets out of business by enforcing this law, because they just didn't have the funds to pay the 75%.

Senator Graham, chief sponsor of SB 14, was present to explain the bill. He stated that this bill was the livestock recodification bill. The amendments that had been made to this bill were change in language and change in numbers, to figures, to coincide with the codes. The Senator explained that the Senate Agriculture committee had gone through the bill very thoroughly and found it to be only a complete language change, with no change in the meaning of the bill. Attached is an explanation of the changes made throughout the bill. Representative Staigmiller asked if the laws would have to be recodified again if we were to convert to the metric system? Dave Cogley, researcher, replied, yes. Dave continued to explain that a lot of the changes made, were changing, "the act" to "the chapter".

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January 25, 1977
Page 2

Senator Graham, chief sponsor of SB 19, explained that this was the agriculture recodification bill, and the changes were of the same kind as in SB 14. He stated that Eldon Fastrup, Department of Agriculture, was a proponent to SB 19, but was unable to attend the hearing.

Representative Ellerd asked if executive action on HB 240, and HB 172, be postponed until Thursday, January 27, because he had too attend another hearing.

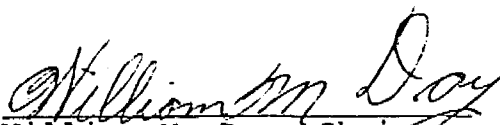
Representative Johnston moved SB 14, do pass. It was seconded by Representative McLane. The motion was passed unanimously.

Representative Conroy moved HB 19, do pass. It was seconded by Representative Staigmiller. The motion was passed unanimously.

Chairman Day asked if any members would like to carry the senate bills on the house floor when they came up for second reading. Representative Gunderson will carry SB 19, and Chairman Day will carry SB 14.

Representative Johnston moved to adjourn. The motion was passed unanimously.

Adjourned at 5:15 p.m.


William M. Day, Chairman

jm

SENATE BILL NO. 14
INTRODUCED BY GRABAM

A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE GENERAL
REVISION AND CLARIFICATION OF THE LAWS RELATING TO
LIVESTOCK."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 3-2404, R.C.M. 1947, is amended to
read as follows:

"3-2404. Definitions of terms. For the purpose of this
act, the following definitions are adopted:

(1) Butter is the clean, nonrancid product made by
gathering the fat of fresh ripened milk or cream into a mass
which also contains a small portion of the other milk
constituents, with or without salt, and must contain not
less than ~~eighty percent~~ (80%) of milk fat. No tolerance for
deficiency in milk fat is permitted. Butter may also contain
added coloring matter.

(2) Renovated butter or ~~process~~ processed butter is
the product made by melting and reworking, without the
addition or use of chemicals or substances except whole
milk, cream, or salt, and must contain not less than ~~eighty~~
~~percent~~ (80%) of milk fat.

(3) Cheese is the sound, solid, and ripened product

made from milk or cream by coagulating the casein with
rennet or lactic acid, with or without ripening ferments and
seasoning, and must contain in the ~~water-free~~ water-free
substance, not less than ~~fifty percent~~ (50%) of milk fat,
and not more than ~~thirty-nine percent~~ (39%) of moisture.
Cheese may also contain added coloring matter.

(4) Skimmed milk cheese is the sound, solid, and
ripened product made from skim milk by coagulating the
casein with rennet or lactic acid, with or without ripening
ferments and seasoning.

(5) Ice cream is a frozen product made with pure,
sweet milk, cream, skim milk, evaporated or condensed milk,
evaporated or condensed skim milk, dry milk, dry skim milk,
pure milk fat, ~~or~~ wholesome sweet butter, or any combination
of these products, with or without sweetening, or clean
wholesome eggs or egg products, with or without the use of
harmless flavoring and coloring. Ice cream must contain not
less than ~~ten percent~~ (10%) of milk fat, not less than
~~thirty-three percent~~ (33%) total solids, and may or may not
contain pure and harmless edible stabilizer. Ice cream may
contain not to exceed ~~one percent~~ (1%) gelatin. No frozen
milk or milk product may be manufactured or sold unless it
contains at least ~~ten percent~~ (10%) butterfat, excepting
sherberts, ices, and other exceptions under this section. All
ice cream must be manufactured from pasteurized ice cream

1 mix.

2 (6) Fruit ice cream shall conform to the requirements
3 of ice cream, except that the fruit ingredients must be from
4 sound, clean, and mature fruit, and it must contain not less
5 than ~~nine percent (9%)~~ of milk fat.

6 (7) French ice cream, French custard ice cream, cooked
7 ice cream, ice custard, parfaits, and similar frozen
8 products, except sherbets and water ices, are varieties of
9 ice cream.

10 (8) Ice cream mix is a pasteurized, unfrozen product
11 used in the manufacture of ice cream and must comply with
12 the requirements for ice cream.

13 (9) Milk sherbet is the pure, clean, frozen product
14 made from milk product, water, and sugar, with harmless
15 fruit or fruit juice flavoring and with or without harmless
16 coloring, which must contain not less than ~~0.25 of one~~
17 ~~percent (0.25%)~~ 35/100 of 1% of acid, as determined by
18 titrating with standard alkali and expressed as lactic acid,
19 and with or without added stabilizer composed of wholesome
20 edible material. It must contain not less than ~~four percent~~
21 ~~(4%)~~ by weight of solids.

22 (10) Ice or ice sherbet is the pure, clean, frozen
23 product made from water and sugar with harmless fruit or
24 fruit juice flavoring, ~~and~~ with or without harmless coloring
25 or added stabilizer composed of wholesome edible material,

1 and must ~~not~~ contain not less than ~~0.25 of one percent~~
2 ~~(0.25%)~~ 35/100 of 1% of acid, as determined by titrating
3 with standard alkali and expressed as lactic acid, ~~and with~~
4 ~~or without added stabilizer composed of wholesome edible~~
5 ~~material.~~ It ~~must~~ may contain no milk solids.

6 (11) A creamery is a place where ~~the~~ milk or cream
7 furnished by three ~~(3)~~ or more persons is used for ~~the~~
8 manufacture into butter for commercial purposes.

9 (12) A cheese factory is a place where milk furnished
10 by three ~~(3)~~ or more persons is made into cheese for
11 commercial purposes.

12 (13) An ice cream factory is a place where ice cream
13 mix is frozen into ice cream for commercial purposes.

14 (14) An ice cream mix factory is a place where ice
15 cream mix is made.

16 (15) A milk or cream buying or collecting station is a
17 place where milk or cream is bought or collected for
18 shipment or delivery to a creamery or to a person intending
19 to make use of it for commercial purposes.

20 (16) Person includes persons, whether natural or
21 artificial, including firms, ~~separtnerships~~ partnerships,
22 corporations, and marketing associations of every
23 description.

24 (17) The term "department", unless otherwise
25 indicated, means the department of livestock provided for in

1 Title 82A, chapter 13.

2 (18) It is unlawful for a person, firm, or
3 corporation, or its servant or agent, to manufacture, sell,
4 or expose, or offer for sale, or exchange butter or other
5 substance or commodity defined in this act containing less
6 butterfat or other ingredient than required by this act. A
7 violator is guilty of a misdemeanor and is punishable under
8 ~~section 3-2460~~ 3-24-137."

9 Section 2. Section 3-2489, R.C.M. 1947, is amended to
10 read as follows:

11 "3-2489. Promulgation of minimum standards for milk or
12 cream. The department may adopt minimum standards for ~~milk~~
13 ~~and cream used for manufacturing purposes; its the~~
14 production, transportation, grading, testing, use,
15 processing, ~~and the~~ packaging, and storage of ~~manufactured~~
16 ~~dairy products~~ milk and cream used for manufacturing
17 purposes and of manufactured dairy products."

18 Section 3. Section 3-2496, R.C.M. 1947, is amended to
19 read as follows:

20 "3-2496. Investigation of complaints and violations --
21 injunction. The department shall provide for periodic
22 inspections and investigations to disclose violations of
23 this act or of rules adopted under this act. The department
24 shall receive and provide for the investigation of
25 complaints and request the institution and prosecution of

1 civil or criminal actions, or both. This act and the rules
2 adopted under it may be enforced by injunction in a court
3 having jurisdiction to grant injunctive relief. An
4 adulterated, impure, contaminated, misbranded, condemned, or
5 mislabeled article or product involved in a violation of
6 this act or of the rules adopted under this act is subject
7 to seizure and disposition under an order of the court."

8 Section 4. Section 3-2497, R.C.M. 1947, is amended to
9 read as follows:

10 "3-2497. Definitions. Unless the context requires
11 otherwise in this act the following definitions apply:

12 (1) "Department" means the department of livestock,
13 provided for in Title 82A, chapter 13.

14 (2) "Milk" and "cream" mean milk and cream sold, used,
15 or intended for manufacturing purposes or for conversion
16 into products of a form other than the form in which
17 originally produced or products commonly known as, but not
18 limited to:

19 (a) Butter-;

20 (b) Cheese, including cottage cheese, low-fat cottage
21 cheese, cheese curd, and cream cheese which are either
22 cultured or directly acidified, and cheese dressings-;

23 (c) Ice cream or its mix-;

24 (d) Frozen dessert or its mix-;

25 (e) ~~Sherbet~~ Sherbets of all kinds or their mixes-;

1 (f) Frozen ice cream bars, sandwiches, cones, and
2 similar novelties;

3 (g) Frozen desserts or products made in the semblance
4 or imitation of frozen dessert;

5 (h) Frozen confections or their mixes;

6 (i) Water ices or their mixes;

7 (j) Ice milk or its mix;

8 (k) French ice cream, French custard, or their mixes;

9 (l) Frozen custard or its mix and frozen yogurt;

10 (m) Yogurt, flavored yogurt, and low-fat yogurt;

11 (n) Sour cream—either cultured or directly
12 acidified;

13 (o) Cream cheese—either cultured or directly
14 acidified;

15 (p) Buttermilk—either cultured, from churned butter,
16 or directly acidified;

17 (q) Eggnog, low-fat eggnog, ~~eggnog~~—flavored
18 ~~eggnog-flavored~~ milk, whipped cream, flavored toppings, and
19 similar flavored products;

20 (r) Dry or powdered milk; and

21 (s) Condensed milk products.

22 (3) The items specified in subsections (2) ~~(a) through~~
23 ~~(2) (s)~~ of this section, ~~(a) through (s)~~ shall conform to the
24 standards of identity set forth in the Code of Federal
25 Regulations. If standards of identity are not set forth in

1 the code, then the standards adopted by the department
2 prevail. The labeling of manufactured dairy products shall
3 be in accordance with the Montana Food, Drug, and Cosmetic
4 Act.

5 (4) "Manufactured dairy product" means an item
6 enumerated in subsection ~~(3)~~, (2) or any other dairy product
7 made by incorporating milk or cream or converting milk or
8 cream into a different state of appearance or quality.

9 (5) "Manufactured dairy products plant" or "factory"
10 means a place where milk or cream is collected, and
11 converted into a product, or into a different state of
12 appearance or quality or which manufactures those products
13 listed in subsection (2). If only products of semblance or
14 imitation of dairy products are made, the plant is not
15 considered as a manufactured dairy products plant.

16 (6) "Creamery" means a place where butter is made for
17 commercial purposes.

18 (7) "Cheese factory" means a place where cheese
19 including cream cheese, cottage cheese, creamed cottage
20 cheese, cheese curd, cottage cheese dressing, and low-fat
21 counterparts of cheese, either cultured or directly
22 acidified, ~~are~~ is made for commercial purposes.

23 (8) "Frozen dessert plant" means a place where
24 products named in ~~subsection~~ subsections (2) (c) through
25 (2) (i) of this section are made for commercial purposes.

(9) "Cream station" means a place other than a creamery where deliveries of milk or cream are weighed, graded, sampled, tested, or collected for purchase.

(10) "Dairy" or "dairy farm" means a place where one ~~+~~ or more cows or goats are kept, a part or all of the milk or cream from which is used for manufacturing purposes.

(11) "Milk" means the lacteal secretion, practically free from colostrum, obtained by the milking of one ~~+~~ or more healthy cows located in modified accredited areas and modified certified areas or from cows in herds fully accredited as tuberculosis free by the United States Department ~~department~~ of ~~Agriculture~~ agriculture or in the process of being accredited when the milk or cream is sold for use in, intended for use in, or used in a manufactured dairy product.

(12) "Cream" means the milk fat which rises to the surface when milk is allowed to stand, or which is separated from milk by centrifugal force when sold, used, or intended for use in a manufactured product.

(13) "Raw milk" or "raw milk products" means milk or milk products which have not been treated by a process of pasteurization.

(14) "Person" means an individual, firm, partnership, corporation, ~~co-operative~~ cooperative, or other business unit or trade device.

(15) "Pasteurization", "pasteurizing", and similar terms mean the process of heating every particle of milk or milk product to at least 145 degrees F. and holding it continuously at or above this temperature for at least ~~thirty~~ ~~(30)~~ minutes, or to at least 161 degrees F. and holding it continuously at or above this temperature for at least ~~fifteen~~ ~~(15)~~ seconds, in equipment which is properly operated and approved by the department. Milk products that have a higher fat content than milk or contain added sweeteners shall be heated to at least 155 degrees F. and held continuously at or above this temperature for at least ~~thirty~~ ~~(30)~~ minutes, or to at least 175 degrees F. and held continuously at or above this temperature for at least ~~twenty-five~~ ~~(25)~~ seconds. This definition does not bar any other pasteurization process which has been recognized by the United States ~~Public Health Service~~ public health service to be equally effective and which is approved by the department.

(16) "Agent" means a person who is authorized by another person to act for him in dealing with a third person.

(17) "Grading" means the examination of milk, cream, or products, by sight, odor, taste, or laboratory analysis, the results of which determine a grade designating their quality.

1 (18) "Testing," "test," "tested," and similar words
2 mean the examination of milk, cream, or manufactured dairy
3 products by sight, odor, taste, or biological or chemical
4 laboratory analysis to determine their quality,
5 wholesomeness, or composition.

6 (19) "Safe temperature" means 45 degrees F. or less,
7 unless the product is frozen, in which case the temperature
8 must be at or below 0 degrees F.

9 (20) "Producer" means the person who exercises control
10 over the production of milk or cream, delivered to a milk or
11 cream receiving station or manufactured dairy products
12 plant, or who receives payment for milk or cream used in
13 manufacturing.

14 (21) "Mix" includes the liquid, unfrozen product from
15 which those frozen products listed under subsection (2) (c)
16 through (2) (e), and (2) (g) through (2) ~~(e)~~ (1) are made.

17 (22) For purposes of reporting production, and
18 licensing, "manufactured dairy product" includes, but is not
19 limited to:

20 (a) Ice cream or its mix;

21 (b) French ice cream, custard ice cream, French
22 custard ice cream, their low-fat counterparts, or their
23 mixes;

24 (c) Sherbets of all kinds or their mixes;

25 (d) Animal or vegetable fat frozen desserts or their

1 mixes;

2 (e) Frozen confections or their mixes when made in a
3 manufactured dairy products plant;

4 (f) Water ices or their mixes;

5 (g) Frozen dessert sandwiches, bars, cones, and
6 similar novelties;

7 (h) Frozen dessert made of ~~non-dairy~~ non-dairy origins,
8 and other products made in the semblance or imitation of
9 dairy products or their mixes when made in a manufactured
10 dairy products plant;

11 (i) Ice milk or its mix;

12 (j) Cheese of all kinds including cottage cheese,
13 cheese curd, cheese dressing, and cream cheese either
14 cultured or directly acidified;

15 (k) Sour cream when cultured or directly acidified;

16 (l) Eggnog, low-fat eggnog, ~~eggog~~ eggog ~~flavored~~
17 eggnog-flavored milk, and similar flavored products;

18 (m) Buttermilk, cultured, or from churned butter, or
19 directly acidified;

20 (n) Butter;

21 (o) Yogurt—low-fat yogurt, flavored yogurt, either
22 cultured or directly acidified, or frozen.

23 (23) "Official test" means test procedures outlined in
24 the sources referred to under ~~section 3-2498 of~~ concerning
25 samples, methods, and rules of evidence.

1 (24) "Water ice" means a frozen product, containing,
2 but not limited to, the following ingredients: water, sugar,
3 flavoring, coloring, stabilizers, and other ingredients
4 allowed by the Code of Federal Regulations as optional
5 ingredients.

6 (25) "C.I.P." means the procedure by which sanitary
7 pipelines or pieces of dairy equipment are mechanically
8 cleaned in place by circulation and when this procedure
9 meets the 3-A accepted practices for permanently installed
10 sanitary product-pipelines and cleaning systems.

11 (26) "Filled dairy products" means milk, cream, or
12 skimmed milk, or any combination of these, whether or not
13 condensed, evaporated, concentrated, frozen, powdered,
14 dried, or desiccated, or any food product made or
15 manufactured from them, to which has been added, or which
16 has been blended or compounded with, fat or oil other than
17 milk fat, so that the resulting product is in imitation or
18 semblance of a dairy product, including milk, cream, sour
19 cream, skimmed milk, ice cream, low-fat ice cream, whipped
20 cream, flavored milk or skim milk yogurt, dried or powdered
21 milk, cheese, cream, cream cheese, cottage cheese, creamed
22 cottage cheese, ice cream mix, low-fat ice cream mix,
23 sherbet, condensed milk, evaporated milk, or concentrated
24 milk.

25 (27) "Intrastate commerce" means commerce within this

1 state under the jurisdiction of the state, and includes the
2 operation of a business or service establishment.

3 (28) "Code of Federal Regulations" refers especially
4 but is not limited to Title 21 which contains the
5 definitions and standards of identity for products as
6 established by the Food and Drug Administration drug
7 administration, United States Department of
8 Health, Education and Welfare health, education and welfare.

9 (29) "Culture" means the harmless lactic acid
10 fermenting bacteria which are added to milk or cream to make
11 manufactured dairy products like cultured buttermilk,
12 cheese, cottage cheese, yogurt, sour cream, cream cheese,
13 butter, and other similar products.

14 (30) "Direct acidification—" directly acidified,
15 and similar terms mean the process of adding a food grade
16 acid to milk or cream instead of or in addition to the
17 adding of culture.

18 (31) "Mislabeled," "unwholesome," "food additives,"
19 "optional ingredients," "impure," "misbranded,"
20 "contaminated," "adulterated," "perishable,"
21 "hazardous," "unfit," "spoiled," "damaged," and similar
22 terms, when applied to a manufactured dairy product or
23 product made in semblance or in imitation of a manufactured
24 dairy product, are as defined in ~~sections~~ 27-701 to through
25 27-723."

1 Section 5. Section 3-2498, R.C.M. 1947⁴, is amended to
2 read as follows:

3 "3-2498. Tests and analyses — admissibility as
4 evidence. (1) The department may require a chemist,
5 biologist, microbiologist, serologist, or other qualified
6 employee of the department of health and environmental
7 sciences or other laboratory approved by the department, to
8 test or analyze samples of milk, cream, manufactured dairy
9 products, or products made in the semblance or imitation of
10 these products.

11 (2) Any appropriate test method listed in Standard
12 Methods for the Examination of Dairy Products, current
13 edition—American Public Health Association, Inc.,—4740
14 Broadway, New York, N.Y.—10049, or Standard Methods for the
15 Examination of Water and Waste Water, current
16 edition—American Public Health Association, Inc.,—4790
17 Broadway, New York, N.Y.—10049, or the methods in the
18 Official Methods of Analysis of the Association of Official
19 Analytical Chemists, current edition as published by the
20 Association of Official Analytical Chemists, Box—540,
21 Benjamin Franklin Station, Washington 4, D.C. or any other
22 appropriate tests approved by the department may be used,
23 and the results of these tests or analyses are admissible as
24 prima facie evidence of the facts disclosed, in a court,
25 hearing, or proceeding arising under this act, when

1 identified by the sample numbers and verified by the
2 department representative and analyst handling them. These
3 tests shall be designated and referred to as "official
4 tests."¹

5 Section 6. Section 3-24-122, R.C.M. 1947, is amended
6 to read as follows:

7 "3-24-122. Filled dairy products unlawful —
8 exceptions. (1) Filled dairy products resemble genuine dairy
9 products so closely that they lend themselves readily to
10 substitution for and confusion with such dairy products and
11 in many cases cannot be distinguished from genuine dairy
12 products by the ordinary consumer or ordinary laboratory
13 procedures. The manufacture, sale, exchange, purveying,
14 transportation, possession, or offering for sale or exchange
15 or purveyance of filled dairy products lends itself to
16 substitution, confusion, deception, and fraud, and ~~one which~~
17 if permitted, ~~to exist~~ tends to interfere with the orderly
18 and fair marketing of foods essential to the well-being of
19 the people of this state. It is hereby declared to be the
20 purpose of this act to:

21 (a) ~~to~~ correct, prevent, and eliminate the condition
22 above referred to;

23 (b) ~~to~~ protect the public from confusion, fraud, and
24 deception;

25 (c) ~~to~~ prohibit practices inimical to the general

welfare; and

(d) to promote the orderly and fair marketing of essential foods.

~~(1)(2) Therefore, it shall be~~ It is unlawful; in intrastate commerce

(a) for any person to manufacture, sell, exchange, display, purvey, transport, or possess any filled dairy product or to offer or expose for sale or exchange or to be purveyed any such product, in intrastate commerce;

~~(2)(b) It shall be unlawful~~ for any person owning or operating a bakery, confectionery shop, factory, or other place where food products are prepared or manufactured for sale, exchange, or purveyance to the public in intrastate commerce to utilize any filled dairy product as an ingredient in any food product so manufactured or prepared;

~~(3)(c) It shall be unlawful in intrastate commerce~~ for any person knowingly to sell, exchange, purvey, transport, or possess any food product in intrastate commerce in which any filled dairy product is an ingredient;

~~(3) provided, however, that the~~ The term "filled dairy product" ~~shall not be construed to~~ does not mean or include:

(a) Oleomargarine oleomargarine;

(b) ~~any~~ any distinctive proprietary food compound not readily mistaken for a dairy product where such compound is customarily used on the order of a physician and is prepared

and designed for medicinal or special dietary use and prominently so labeled;

(c) ~~any~~ any frozen dessert containing animal fat (other than butterfat) or vegetable fat when the container is properly labeled;

(d) ~~any~~ any dairy product flavored with chocolate or cocoa where the fats or oils other than milk fat contained in such product do not exceed the amount of cacao fat naturally present in the chocolate or cocoa used; or

(e) ~~any~~ any dairy product in which the vitamin content has been increased and food oil utilized as a carrier of such vitamins provided the quantity of such food oil does not exceed ~~one one hundredths~~ (1/100) of ~~one per cent~~ (1%) of the weight of the finished dairy product."

Section 7. Section 3-24-127, R.C.M. 1947, is amended to read as follows:

"3-24-127. Pasteurization apparatus and records.
(1) The department may adopt rules which it considers necessary to assure proper control and use of all equipment used in the process of pasteurization. The department may require the operation of devices and apparatus which are needed to accurately record and indicate temperatures to which and the length of time for which the pasteurized product has been heated, including those periods and temperatures when the equipment is cleaned and sanitized by

C.I.P. method. A person using pasteurizing equipment in this state shall properly record and have available to the department for the preceding ~~two~~ (2) months all records pertaining to the pasteurization of any product. These records shall, at all times, be open to the inspection of the department, the department of health and environmental sciences, and all other state, county, and municipal officers charged with the enforcement of laws and ordinances respecting dairy products or the public health.

(2) Pasteurizing equipment which records temperatures or controls the time of holding shall be timed, set, and sealed by the department. The seals may not be removed or broken without first notifying the department."

Section 8. Section 3-24-138, R.C.M. 1947, is amended to read as follows:

"3-24-138. Deceit in grade, measure, or test of milk and cream unlawful. ~~A person, firm, or corporation selling or delivering milk or cream, or receiving or purchasing milk or cream by weight, grade or Babcock test, or either, or by measure, grade or Babcock test, or either, may not with intent to deceive or defraud as to the weight, grade, measure or Babcock test thereof, manipulate, change or alter the measure, Babcock test, grade or weight, or make or return to a person a false or inaccurate statement of the weight, grade, Babcock test or measure, or No person may use~~

a measure or grading or testing apparatus which does not comply with the standards of the department ~~or which has been condemned as inaccurate or make any false or inaccurate statement or otherwise deceive or defraud a producer or other person concerning the weight, measure, butterfat content, or other component content of milk or cream.~~

Section 9. Section 46-208, R.C.M. 1947, is amended to read as follows:

"46-208. Powers of department. The department may:

(1) ~~Supervise~~ supervise the sanitary conditions of livestock in this state, under the provisions of the constitution and statutes of this state and the rules adopted by the department. The department may quarantine a lot, yard, land, building, room, premises, inclosure, or other place or section in this state, which is or may be used or occupied by livestock, and which, in the judgment of the department is infected or contaminated with an infectious, contagious, communicable, or dangerous disease, or disease-carrying medium by which the disease may be communicated. The department may quarantine livestock in this state, when the livestock is affected with, or has been exposed to disease or disease-carrying medium. The department may prescribe treatments and enforce sanitary rules which are necessary and proper to circumscribe, extirpate, control, or prevent the diseases.

(2) ~~Foster~~ foster, promote, and protect the livestock industry in this state by the investigation of diseases and other subjects related to ways and means of prevention, extirpation, and control of diseases, or to the care of livestock and its products, and to this end ~~to~~ may establish and maintain a laboratory, ~~and to~~ may make, or cause to be made, biologic products, curatives, and preventative agents, and ~~to do or~~ may perform any other acts and things as may be necessary or proper in the fostering, promotion, or protection of the livestock industry in this state.

(3) ~~Impose~~ impose and collect such fees as the department considers appropriate for the tests and services performed by the laboratory and for ~~such~~ biologic products, curatives, and preventative agents made or caused to be made by the department. In fixing ~~such~~ these fees the department shall take into consideration the costs, both direct and indirect, of ~~such~~ the tests, services, products, curatives, and agents. All fees shall be deposited in the earmarked revenue fund for the use of the animal health functions of the department.

(4) ~~Adopt~~ adopt rules and orders which it considers necessary or proper to prevent the introduction or spreading of infectious, contagious, communicable, or dangerous diseases affecting livestock in this state, and to this end may adopt rules and orders necessary or proper governing

inspections and tests of livestock intended for importation into this state, before it may be imported into this state;

(5) ~~Adopt~~ adopt rules and orders which it considers necessary or proper for the inspection, testing, and quarantine of all livestock imported into this state;

(6) ~~Adopt~~ adopt rules and orders which it considers necessary or proper for the supervision, inspection, and control of the standards and sanitary conditions of slaughterhouses, meat depots, meat and meat food products, dairies, milk depots, milk and its by-products, barns, dairy cows, factories, and other places and premises where meat, or meat foods, milk or its products, or any ~~by-products~~ thereof intended for sale or consumption as food are produced, kept, handled, or stored. ~~For the purposes of this act--~~ An authorized representative of the department, may take samples of a product so produced, kept, handled, or stored, for analysis or testing by the ~~department's chemist, bacteriologist, or the state chemist, and the department.~~ The records of the samples and their analysis and test, when identified, as to the sample by the oath of the officer taking it, and verified, as to the analysis or test, by the oath of the chemist or bacteriologist making it, is ~~are~~ prima facie evidence of the facts set forth in it, ~~then~~ when offered in evidence in a prosecution or action at law or in equity for violation of this ~~act~~, chapter or a rule or order

of the board adopted under this ~~act~~ chapter. These standards, ~~as far as~~ insofar as they relate to dairies or milk and its by-products, may not include standards of weight or measurement.

(7) ~~Adopt~~ adopt rules and orders which seem necessary or proper for the supervision and control of manufactured and refined foods for livestock, and the manufacture, importation, sale, and method of using a biologic remedy or curative agent for the treatment of diseases of livestock. However, as far as practicable the standards approved by the United States department of agriculture shall be adopted.

(8) ~~Install~~ install an adequate system of meat inspection at any time and in such places as public welfare may demand under the rules which may provide fees for the maintenance of such inspection, and which shall provide ways and means for shipping home-grown and home-killed meats into any city in this state. As far as practicable, the rules shall conform with the meat-inspection requirements of the United States department of agriculture.

(9) ~~Slaughter~~ slaughter or cause to be slaughtered, any livestock in this state known to be affected with, or which has been exposed to, an infectious, contagious, communicable, or dangerous disease, when such slaughter is necessary for the protection of other livestock, and destroy, or cause to be destroyed, all barns, stables,

sheds, ~~out-buildings~~ outbuildings, fixtures, furniture, and or personal property infected with any such infectious, contagious, communicable, or dangerous disease, when they cannot be thoroughly cleaned and disinfected and the destruction is necessary to prevent the spreading of the disease.

(10) ~~Indemnify~~ indemnify the owner of any property destroyed by order of the department ~~under this act~~, or pursuant to any rules ~~or orders~~ adopted by the department under this ~~act~~, chapter:

(11) ~~Require~~ require persons, firms, and corporations engaged in the production or handling of meat, ~~or~~ meat food products, ~~or~~ dairy products, or any by-products thereof, to furnish statistics of the quantity and cost of the food and food products produced or handled, and the name and address of persons supplying them any of the products."

Section 10. Section 46-211, R.C.M. 1947, is amended to read as follows:

"46-211. Adoption of rules. The department shall adopt and enforce rules for the inspection and tuberculin test of dairy cattle, or other animals, and for the inspection, test, treatment, or disposition of livestock affected with, or which may have been exposed to, infectious, contagious, communicable, or dangerous disease, and for the quarantines provided for in this ~~act~~ chapter."

1 Section 11. Section 46-212, R.C.M. 1947, is amended to
2 read as follows:

3 "46-212. Establishment of livestock disease control
4 area -- entry into area -- compulsory inspection area, when.

5 ~~(1)~~ Upon receipt of a petition signed by not less than
6 ~~seventy-five per cent (75%)~~ of the livestock owners of the
7 species of animals to be inspected, tested, treated, or
8 vaccinated, and representing not less than ~~fifty per cent~~
9 ~~(50%)~~ of such species in any school district, as determined
10 from the permanent records of the board of county
11 commissioners describing school district boundaries, of any
12 county in the state of Montana, petitioning for the area
13 control, treatment, prevention, or eradication of any
14 dangerous disease of livestock within such school district,
15 the Montana board of livestock is authorized and empowered
16 to may establish such school district as a disease control
17 area and to may enforce the inspection, test, treatment, or
18 vaccination of all livestock of the species designated
19 within such school district in accordance with the rules and
20 regulations promulgated by the Montana department of
21 livestock for the inspection, eradication, treatment, or
22 vaccination of such livestock and to may reimburse the
23 owners of livestock slaughtered by order of the Montana
24 department of ~~livestock~~ or its authorized agent in
25 accordance with the laws of Montana governing the payment of

1 such animal or animals.

2 ~~(2) Provided that in~~ In any circumscribed disease
3 control area as established under this act, section by the
4 Montana department of ~~livestock~~, no other livestock of the
5 species designated by the Montana department of ~~livestock~~ to
6 be inspected, tested, treated, or vaccinated, ~~shall may~~
7 enter the disease control area unless inspected, tested,
8 treated, or vaccinated under the direction of the Montana
9 department of ~~livestock~~ or are accompanied by a satisfactory
10 health certificate or except under special permit and
11 restrictions provided by the Montana department of
12 livestock.

13 ~~(3) Provided further that when seventy-five per cent~~
14 When ~~(75%)~~ or more of the school districts in any county in
15 Montana are established under this act section by the
16 Montana department of ~~livestock~~ as disease control areas, it
17 becomes mandatory on the part of the remaining livestock
18 owners in such county to submit their livestock of one or
19 more species for inspection, test, treatment, or
20 vaccination, as directed by the Montana department of
21 livestock."

22 Section 12. Section 46-217, R.C.M. 1947, is amended to
23 read as follows:

24 "46-217. Authority of municipal corporations. This act
25 chapter does not prevent the governing authority of a

municipal corporation from enacting or enforcing ordinances for the inspection of slaughterhouses, meat depots, meat markets, meat food products, creameries, butter or cheese factories, dairies, ~~and~~ or dairy products, located, sold, or offered for sale in the limits of the municipal corporation. An ordinance may not be enforced in conflict with the powers of this ~~act~~ chapter delegated to the department, and its officers, or agents."

Section 13. Section 46-218, R.C.M. 1947, is amended to read as follows:

"46-218. Classification of animals as to compensation for slaughter. Animals, slaughtered under the direction of the department by order of the board, ~~under this act~~, are divided into two classes for the purposes of compensation:

(1) Animals determined by the department to be affected with an incurable disease, which are destroyed by order of the board, are designated as animals of class 1, and unless otherwise provided each of the animals shall be paid for on the basis of ~~seventy-five per cent (75%)~~ of its appraised value. The county in which the animal was owned at the time it was determined to be affected with an incurable disease, is liable in part, as later provided, for an indemnity to be paid for the animal. The ownership and county are determined by an affidavit of the owner of the animal or his agent. Each animal directed to be destroyed

shall be appraised by a representative or an authorized agent of the department with the owner agreeing in writing as to the value of the animal. When appraised, due consideration shall be given to its breeding value as well as its dairy or meat value and the condition of the animal as to the disease and the present and probable effect of the disease on the animal. In the absence of an agreement, there shall be appointed three ~~(3)~~ competent, disinterested parties, one appointed by the department, one by the owner, and a third by the first two, to appraise each animal, ~~taking into consideration its breeding value as well as its dairy or meat value and the condition of the animal as to the disease and the present probable effect of the disease on the animal.~~ TAKING INTO CONSIDERATION ITS BREEDING VALUE AS WELL AS ITS DAIRY OR MEAT VALUE AND THE CONDITION OF THE ANIMAL AS TO THE DISEASE AND THE PRESENT PROBABLE EFFECT OF THE DISEASE ON THE ANIMAL. The judgment of the majority is the judgment of the appraisers and is binding on both parties as the final determination of indemnity to be paid for each animal. The total compensation of each group of appraisers is limited to ~~five dollars (\$5)~~ for the group appraisal, one-half ~~(1/2)~~ of which shall be paid by the department. The total amount of indemnity paid by the state and a county for an animal may not exceed the actual sound value of an animal of its class, and the total combined

1 amount of indemnity paid for the animal by the state and a
 2 county may not exceed the sum of ~~one hundred dollars~~ ~~(\$100)~~
 3 for a registered purebred animal or the sum of ~~fifty dollars~~
 4 ~~(\$50)~~ for a grade animal. Animals presented for appraisal as
 5 purebreds shall be accompanied by their registration papers
 6 at the time of appraisal or they shall be appraised as
 7 grades. If purebreds are less than ~~three~~ ~~(3)~~ years old and
 8 not registered, the department may grant a reasonable time
 9 for their registration and presentation of their
 10 registration papers to the appraiser. Registration papers
 11 shall accompany the claim for indemnity.

12 (2) Animals of class 1 shall be paid for on the basis
 13 of their full appraised value as determined in this section
 14 if no evidence of incurable disease is disclosed by autopsy,
 15 bacteriologic, serologic, microscopic, or other findings.
 16 The total combined amount of indemnity paid by the state and
 17 a county for an animal may not exceed the actual sound value
 18 of an animal of its class. The total combined amount of
 19 indemnity paid by the state and a county for the animal may
 20 not exceed ~~one hundred dollars~~ ~~(\$100)~~ for a registered
 21 purebred animal or ~~fifty dollars~~ ~~(\$50)~~ for a grade animal.

22 (3) Animals which are determined by the department to
 23 be affected with or exposed to foot-and-mouth disease,
 24 rinderpest, contagious pleura pneumonia, surra, or other
 25 ~~infectious-contagious infectious, contagious, communicable,~~

1 or dangerous disease, which is not of its nature necessarily
 2 fatal, and are destroyed by order of the department as a
 3 sanitary safeguard, are designated as animals of class 2 and
 4 each animal shall be paid for on the basis of its full
 5 appraised value. The appraised value shall be determined in
 6 the manner set out in subsection (1) of this section. The
 7 appraisal of the animals shall be based on the meat, dairy,
 8 or breeding value of the animal, but where appraisal is
 9 based on breeding value of the animal, no appraisal may
 10 exceed three ~~(3)~~ times its meat or dairy value. The total
 11 amount of indemnity paid by the state for an animal may not
 12 exceed the actual sound value of an animal in its class,
 13 ~~and no~~ no indemnity for a class 2 animal may be paid by a
 14 county. In the case of destruction of an animal afflicted
 15 with brucellosis (Bang's disease), no indemnity shall be
 16 paid for the animal, unless the board, in its discretion,
 17 determines the best interests of this state will be served
 18 by payment of an indemnity. In this event, the board shall
 19 set out standards of indemnity by rules, and may not pay in
 20 excess of ~~one hundred dollars~~ ~~(\$100)~~ for a registered
 21 purebred animal, or ~~fifty dollars~~ ~~(\$50)~~ for a grade animal.
 22 In all cases where the federal government, or agency other
 23 than the state, compensates the owner in whole or in part
 24 for livestock destroyed as a sanitary safeguard, the amount
 25 of compensation from the state shall be determined under

1 ~~section~~ 46-229.

2 (4) Animals which are injured or killed while they are
3 being inspected or tested under an order of the department
4 or its agent, ~~and if the animals which~~ do not come within
5 either class 1 or class 2, may be paid for at their full
6 appraised value, if the claim for the animal is recommended
7 for payment at a meeting of the ~~department~~ board. Where it
8 is shown that the injury or death of the animal was not
9 proximately due to the negligence of the owner or his agent,
10 the whole claim, when approved, shall be paid out of
11 department funds. The limit of indemnity for an animal paid
12 for by the state may not exceed that fixed by this ~~act~~
13 section for animals of class 2."

14 Section 14. Section 46-220, R.C.M. 1947, is amended to
15 read as follows:

16 "46-220. Indemnity -- from what funds paid. In payment
17 for animals or property destroyed by order of the
18 department, the state shall pay one-half ~~(1/2)~~ of the
19 indemnity out of the money at the disposal of the
20 department. The county liable in part for the indemnity, ~~as~~
21 ~~determined by this act~~, shall pay one-half ~~(1/2)~~ of the
22 total indemnity out of the general fund of the county."

23 Section 15. Section 46-224, R.C.M. 1947, is amended to
24 read as follows:

25 "46-224. Examination and payment of claims. Claims

1 against the state arising under this ~~act~~ chapter, if found
2 correct, shall be processed and paid from funds of the
3 department."

4 Section 16. Section 46-226, R.C.M. 1947, is amended to
5 read as follows:

6 "46-226. Sale of condemned carcasses -- disposal of
7 proceeds. Where the carcass of an animal ordered destroyed
8 under this ~~act~~ chapter is found, on official ~~post-mortem~~
9 postmortem inspection, to be fit for human consumption, the
10 owner shall receive the net proceeds from the sale of the
11 carcass. The proceeds shall be deducted from his claim
12 against the state and county for the slaughter. A
13 representative of the department, may, when considered
14 advisable or necessary or when it is desired by the owner,
15 sell the carcass on terms he considers to be in the best
16 interests of this state, and the net proceeds obtained from
17 the sale shall be paid to the owner. This procedure does not
18 invalidate the owner's claim for indemnity for any balance
19 due him."

20 Section 17. Section 46-228, R.C.M. 1947, is amended to
21 read as follows:

22 "46-228. Persons entitled to indemnity. (1) The owner
23 of an animal or property destroyed under this ~~act~~, chapter
24 is entitled to indemnity, except in the following cases:

25 ~~(1)(a) animals~~ animals belonging to the United

1 States:

2 ~~(2)(b)~~ Animals animals brought into this state which

3 violate this ~~act~~, chapter or rules of the department;

4 ~~(3)(c)~~ Animals animals which the owner or claimant

5 knew to be diseased, or had notice of the disease at the

6 time they came into his possession;

7 ~~(4)(d)~~ Animals animals which had the disease for which

8 they were slaughtered, or which were destroyed because of

9 exposure to the disease, at the time of their arrival in

10 this state. However, ~~as a class 2 animal of the second class~~

11 shipped into this state under department rules and

12 accompanied by the proper certificate of health from a

13 recognized state or federal veterinarian may be paid for

14 when payment is authorized by the department.

15 ~~(5)(e)~~ Animals animals which have not been in this

16 state for at least ~~one hundred and twenty~~ (120) days before

17 the discovery of the disease; however, class 2 animals of

18 ~~the second class~~ which have not been in the state ~~one~~

19 ~~hundred and twenty~~ (120) days may be paid for when payment

20 is authorized by the department;

21 ~~(6)(f)~~ When when the owner or agent has not used

22 reasonable diligence to prevent disease or exposure to

23 disease;

24 ~~(7)(g)~~ When when the owner or agent has not complied

25 with the rules of the department with respect to animals

1 condemned;

2 ~~(8) No compensation or indemnity will be paid for the~~

3 ~~destruction of livestock affected with tuberculosis, or~~

4 ~~other infectious, contagious, communicable, or dangerous~~

5 ~~disease, unless the entire herd or band of affected~~

6 ~~livestock is under the supervision of the department for the~~

7 ~~eradication of the disease.~~

8 ~~(9)(h)~~ When when animals condemned are not destroyed

9 within ~~sixty~~ (60) days after they are determined to be

10 affected with or exposed to a disease which requires them to

11 be destroyed by order of the department.

12 (2) No compensation or indemnity will be paid for the

13 destruction of livestock affected with tuberculosis or other

14 infectious, contagious, communicable, or dangerous disease

15 unless the entire herd or band of affected livestock is

16 under the supervision of the department for the eradication

17 of the disease."

18 Section 18. Section 46-230, R.C.M. 1947, is amended to

19 read as follows:

20 "46-230. Expenses, how paid — lien and foreclosure.

21 The expense of inspecting, testing, supervision of

22 quarantine, supervision of dipping, supervision of

23 disinfection, and supervision of other treatment of

24 livestock by the department, ~~under this act~~, and the

25 sanitary inspection of dairies, packing houses, meat depots,

1 slaughterhouses, milk depots, and other premises ~~under this~~
 2 ~~act~~, shall be paid for by the department. However, the owner
 3 of the livestock or property is liable for all expenses,
 4 except the salary of the supervising officer, representing
 5 the department, when the owner, agent, or person in charge
 6 of the livestock or property has violated the rules of the
 7 department. These expenses are a lien on the livestock or
 8 other property, and the department may retain possession of
 9 the livestock until the charges and expenses are paid. The
 10 lien is not dependent on possession, and ~~the lien~~ may be
 11 foreclosed in the name of the agent of the department by
 12 sale of the stock, or as many as may be necessary to pay the
 13 sum of the costs, ~~by sale at public auction, after and ten~~
 14 ~~(10)~~ days' notice by posting in three ~~(3)~~ public places in
 15 the county. The lien may also be foreclosed by an action in
 16 a court of competent jurisdiction against the owner of the
 17 livestock to recover the amount of charges and expenses."

18 Section 19. Section 46-232, R.C.M. 1947, is amended to
 19 read as follows:

20 "46-232. Licensing of milk plants and dairies selling
 21 milk or cream for public consumption. (1) It is unlawful
 22 for the following businesses to operate in this state
 23 without first obtaining a license from the department of
 24 livestock:

25 (a) ~~a~~ a dairy selling milk or cream for public

1 consumption in the form in which it is originally produced;
 2 (b) ~~Condensed~~ a condensed, evaporated, or powdered
 3 milk plant;

4 (c) ~~fluid~~ a fluid milk plant. A fluid milk plant is a
 5 place where milk or cream is not produced but is purchased
 6 or collected and prepared for distribution to the consumer
 7 in liquid form ~~but is not produced at this place.~~

8 (2) A license expires on December 31 of the year
 9 issued. The department may, following the procedures in the
 10 Montana Administrative Procedure Act [82-4201 to 82-4225],
 11 deny, suspend, or revoke a license when it determines that a
 12 person to whom the license is issued has failed to comply
 13 with the rules of the department or has failed to conduct
 14 his establishment in a sanitary manner. All license fees
 15 collected shall be deposited into the general fund.

16 (3) The department may issue a restraining order
 17 prohibiting a dairy from selling or giving away milk or
 18 cream not produced or handled under the laws of this state,
 19 or the rules of the department. It is unlawful for a dairy,
 20 while restrained, to sell or give away for public
 21 consumption milk or cream produced or handled by the dairy,
 22 and it is also unlawful for a dairy products manufacturing
 23 plant, milk plant, or cream station to purchase or use the
 24 cream or milk from a dairy while the dairy is restrained.

25 (4) The following license fees are charged for

licenses issued under this section:

(a) ~~Condensed~~ condensed, evaporated, or powdered milk factory, ~~fifty-dollars-(\$50)-;~~

(b) ~~Fluid~~ fluid milk plant, ~~fifty-dollars-(\$50)-;~~

(c) ~~Dairy~~ dairy, ~~five-dollars-(\$5)-.~~

(5) ~~A~~ a person violating this ~~act~~ section is guilty of a misdemeanor."

Section 20. Section 46-233, R.C.M. 1947, is amended to read as follows:

"46-233. Exceptions of certain producers of meats and dairy products. The owners or operators of slaughterhouses, packing houses, meat depots, dairies, creameries, butter factories, cheese factories, or other places of business engaged in the production, storage, or transportation of meats, meat foods, or dairy products, are not required to procure a license from the department of health and environmental sciences, ~~in-as-far~~ insofar as the business of production, storage, or transportation of these food products are is concerned. This ~~act~~ section does not limit the supervision or regulation of the sanitary condition of a restaurant, hotel, boardinghouse, or retail market, or the products sold or offered for sale thereat, by the department of health and environmental sciences, nor does this ~~act~~ section limit the duties imposed by law on the department of health and environmental sciences to make sanitary rules for

the eradication or control of an epidemic of human disease which may exist in a community."

Section 21. Section 46-234, R.C.M. 1947, is amended to read as follows:

"46-234. ~~Co-operation~~ Cooperation by public officers. The ~~state~~ department of health and environmental sciences, ~~the board of health and environmental sciences,~~ and local boards of health of a county, city, or town, ~~or village~~ shall cooperate with and assist the department of livestock in matters which relate to the execution of its sanitary powers regarding livestock and their food products under this ~~act,~~ chapter in the manner which the department of livestock prescribes, either by general rule or direct order."

Section 22. Section 46-235, R.C.M. 1947, is amended to read as follows:

"46-235. Slaughterhouse license -- fees and renewals. It is unlawful for a person, firm, or corporation to maintain or conduct a slaughterhouse, meat packing house, or meat depot in this state without having a license issued by the department. The annual fee for ~~a licensee~~ license issued under this section is ~~one-dollar-(\$1)-~~ and shall be paid into the general fund. All licenses expire on December 31, of the year in which they are issued, and shall be renewed by the department on request of the licensee. However, when the

department finds that the place for which the license is issued is not conducted in accordance with the rules and orders of the board, made under ~~this act~~ 46-208, then the department shall revoke the license and may not renew it until the place is in a sanitary condition in accordance with department rules."

Section 23. Section 46-238, B.C.M. 1947, is amended to read as follows:

"46-238. Penalty for violation ~~of act~~. Any person, persons, firm, or corporation violating any provision of this ~~act~~ chapter, or the rule, ~~regulation~~, or order promulgated by authority of same, shall be guilty of a misdemeanor, ~~violations~~ Violations of this ~~act~~ chapter shall be tried without undue delay in any court of competent jurisdiction."

Section 24. Section 46-239, B.C.M. 1947, is amended to read as follows:

"46-239. ~~Same~~ ~~civil~~ Civil liability. A person, firm, or corporation who violates this ~~act~~ chapter or rules or orders of the department is liable for damages sustained by a person because of the violation. The damages may be recovered by the person in a civil action in a court of competent jurisdiction."

Section 25. Section 46-243, B.C.M. 1947, is amended to read as follows:

"46-243. Personal liability — of members and officers of department. No member of the department is personally liable for damage resulting from his official acts or decisions under this ~~act~~, chapter or a rule, or order adopted under this ~~act~~ chapter, unless it is for his own willful wrong or gross negligence."

Section 26. Section 46-248, B.C.M. 1947, is amended to read as follows:

"46-248. Penalty ~~for violation of act~~. Any person guilty of violating ~~this act shall be~~ 46-247 ~~is~~ guilty of a misdemeanor and upon conviction ~~shall be~~ is punishable by a fine not exceeding ~~five hundred dollars~~, \$500 or by imprisonment in the county jail not exceeding ~~one~~ 1 year, or by both fine and imprisonment."

Section 27. Section 46-605, B.C.M. 1947, is amended to read as follows:

"46-605. Designation of years for ~~re-recording~~ rerecording brands. Each ~~tenth~~ 10th year after 1921 is the year for ~~re-recording~~ rerecording artificial marks and brands used to distinguish and identify the ownership of domestic animals and livestock. The department shall, on the application of a person, firm, or corporation, or the transferee of the person, firm, or corporation, made in a year which is a year for ~~re-recording~~ rerecording marks and brands, ~~to re-record~~ rerecord a mark or brand which at the

1 time of the application stands of record in the department
 2 in the name of the person, firm, or corporation. A mark or
 3 brand which was not originally recorded or ~~re-recorded~~
 4 rerecorded in the name of the person, firm, or corporation,
 5 during the ~~re-recording~~ rerecording year last preceding the
 6 date when the application is filed, or originally recorded
 7 in the name of the person, firm, or corporation, or his or
 8 its predecessor or predecessors in interest between the time
 9 of the application and the ~~re-recording~~ rerecording year
 10 last preceding the application, is not of record in the
 11 department."

12 Section 28. Section 46-808, R.C.M. 1947, is amended to
 13 read as follows:

14 "46-808. Removal of livestock from state without
 15 inspection — penalty — exception. Any person, other than
 16 the owner, or his agent or employee, who, without consent of
 17 the owner, removes or causes to be removed from this state
 18 any cow, ox, bull, stag, calf, steer, heifer, horse, mule,
 19 mare, colt, foal, or filly, without having the same
 20 inspected where such inspection is required by law ~~shall be~~
 21 is guilty of a felony and shall be punished by a fine of not
 22 more than ~~two thousand dollars (\$2,000.00)~~, or by
 23 imprisonment in the state prison for a term of not more than
 24 ~~three (3) years~~, or by both such fine and imprisonment,
 25 ~~provided, however, that the~~ The provisions of this section

1 ~~shall do not~~ apply to any person who removes from this state
 2 any animal specified by this section, for the purpose of
 3 obtaining emergency treatment for such animal by a licensed
 4 veterinarian, ~~excluded from this act."~~

5 Section 29. Section 46-903, R.C.M. 1947, is amended to
 6 read as follows:

7 "46-903. Quarantine of diseased animals — ownership
 8 of animals to be determined — proceeds from sale of stock
 9 of unknown owner. If the livestock inspector at a sale ~~finds~~
 10 finds any livestock afflicted with an infectious or
 11 contagious disease, he shall immediately take possession of
 12 the livestock and place them in quarantine, to be disposed
 13 of as directed by the department. If there is any question
 14 respecting the ownership of livestock sold, the livestock
 15 inspector may take possession of the livestock. The
 16 livestock inspector shall notify the person in charge of the
 17 market and conducting the sales, and the person who has
 18 purchased the livestock at the sale, within a reasonable
 19 time. Where livestock is sold, the ownership of which is
 20 not known or cannot be determined by the livestock
 21 inspector, they may be sold as strays, and the net proceeds
 22 derived from the sale shall be ~~sent to the department to be~~
 23 ~~held and kept, together with a complete description of the~~
 24 ~~livestock and the brands of the livestock. The same shall~~
 25 ~~be held and retained by the department for the use and~~

~~benefit of the owner of the livestock and paid to the owner when ownership has been satisfactorily determined handled in the same manner as provided in 46-918. If the proceeds of the sale sent to the department are not claimed by the lawful owner of the livestock within two (2) years from the date of the receipt of the proceeds, the money shall be held and disposed as provided in section 46-904 because state property and be placed to the credit of the earmarked revenue fund for the use of the department."~~

Section 30. Section 46-906, R.C.M. 1947, is amended to read as follows:

"46-906. Definitions. Unless the context requires otherwise, in this act chapter:

(1) "livestock livestock" means and includes horses, mules, cattle, swine, sheep, and goats;

(2) "Person person" means a person, ~~partnership~~ partnership, association, or corporation;

(3) "Board board" means the board of livestock provided for in section 82A-1303;

(4) "Certificate certificate" means the certificate of public convenience and necessity authorized to be issued under this act chapter;

(5) "Commission commission basis" means the compensation or charge imposed on the owner of livestock for the services rendered the owner by the operator of the

livestock market;

(6) "Livestock livestock market" means a place where a person assembles livestock for either private or public sale by him and the service is compensated for by the owner, on a commission basis or otherwise, except:

(a) ~~A~~ a place used solely for a dispersal sale of the livestock of a farmer, dairyman, livestock breeder, or feeder who is discontinuing business and no other livestock is sold there or offered for sale;

(b) ~~A~~ a farm, ranch, or place where livestock either raised or kept thereon for the grazing season or for fattening is sold, and no other livestock is brought there for sale or offered for sale;

(c) ~~The the~~ the premises of a butcher, packer, or processor who ~~received~~ receives animals exclusively for immediate slaughter;

(d) ~~The the~~ the premises of a person engaged in the raising of livestock for breeding purposes only, who limits his sale to livestock of his own production;

(e) ~~A~~ a place where a breeder or an association of breeders of livestock of any class assemble and offer for sale and sell under his or their own management any livestock, when the breeder or association of breeders assumes all responsibility for the sale and the title of livestock sold;

(7) "~~off-premise off-premises~~ sale" means the sale of livestock by a livestock market licensed for which a certificate has been issued under this chapter at a place other than the one at which the licensee livestock market conducts ~~his~~ its usual livestock market operation;

(8) "~~Test~~ test station sale" means the sale of livestock from a place where livestock ~~are~~ is taken to measure rates of gain under uniform feeding conditions, when that place is not owned by the owner of the livestock."

Section 31. Section 46-906.1, R.C.M. 1947, is amended to read as follows:

"46-906.1. Board regulation of certain types of nonmarket sales of livestock. (1) ~~Any~~ Each person, not a livestock market operator licensed authorized under this chapter, conducting the sale of livestock in a breed sale, ~~or~~ a breed association sale, or at a ~~test~~ station sale, except when all of the livestock are his and are being sold from his own place, shall obtain approval from the board before conducting the sale.

(2) The board, as conditions to granting approval, may require:

(a) the names and addresses of those conducting the sale;

(b) the date, time, and place where the sale will be conducted;

(c) a detailed statement of the assets and liabilities of the persons conducting the sale;

(d) the establishment of a custodial account into which all moneys received as purchase for the sale of livestock must be deposited;

(e) the posting of reasonable bond, in an amount determined by the board;

(f) the commissions or charges proposed to be imposed on the owners of livestock for services rendered to them associated with the sale;

(g) a guarantee to pay all consignors in full within a reasonable time as set by the board;

(h) such other information as the board considers necessary."

Section 32. Section 46-907, R.C.M. 1947, is amended to read as follows:

"46-907. Regulation of livestock markets. The board shall:

(1) ~~Supervise~~ supervise and regulate livestock markets in this state;

(2) regulate the properties, facilities, operations, services, and practices of all livestock markets;

(3) supervise and regulate livestock markets in all matters affecting the relationship between the operators and owners of livestock, and between the operators and

1 purchasers of livestock, at the markets;

2 (4) prescribe by general order, or otherwise, rules in
3 conformity with this ~~act~~ chapter applicable to all livestock
4 markets, and not in conflict with the laws of the United
5 States or ~~rules and~~ regulations of the United States
6 department of agriculture or other federal agencies."

7 Section 33. Section 46-907.1, R.C.M. 1947, is amended
8 to read as follows:

9 "46-907.1. Occasional ~~off-premise~~ off-premises sales
10 may be authorized. (1) The board may authorize occasional
11 ~~off-premise~~ off-premises sales by ~~licensed~~ authorized
12 livestock markets and may establish the conditions under
13 which approval for an ~~off-premise~~ off-premises sale may be
14 granted, including any change in bonding requirements the
15 board considers necessary.

16 (2) No livestock market ~~licensed for which a~~
17 certificate has been issued under this chapter may conduct
18 an ~~off-premise~~ off-premises sale without obtaining prior
19 approval of the board."

20 Section 34. Section 46-908, R.C.M. 1947, is amended to
21 read as follows:

22 "46-908. Certificate to operate livestock market
23 required -- application, contents of -- fee. (1) A person
24 may not operate a livestock market in this state without
25 first obtaining from the board, under this ~~act~~ chapter, a

1 certificate declaring that public convenience and necessity
2 require the operation. A person making application for a
3 certificate shall do so in writing, verified by the
4 applicant, and specifying the following:

5 ~~(1)(a)~~ (a) The ~~the~~ name and address of the applicant, and
6 the names and addresses of its officers, if any;

7 ~~(2)(b)~~ (b) The ~~the~~ place where the applicant proposes to
8 operate a livestock market;

9 ~~(3)(c)~~ (c) A complete and detailed description of the
10 property and facilities proposed to be used in connection
11 with the livestock market;

12 ~~(4)(d)~~ (d) The ~~the~~ commissions or charges applicant
13 proposes to impose on the owners of livestock for services
14 rendered to them by applicant in the operation of the
15 livestock market;

16 ~~(5)(e)~~ (e) A detailed statement showing the assets and
17 liabilities of the applicant;

18 ~~(6)(f)~~ (f) The ~~the~~ location of other livestock markets
19 within a radius of ~~two hundred~~ (200) miles of the proposed
20 livestock market, and the names and addresses of the
21 operators thereof;

22 ~~(7)(g)~~ (g) A detailed statement of the facts upon which
23 the applicant relies showing public convenience and
24 necessity for the livestock market, including the
25 anticipated revenue from inspection fees that may be derived

therefrom by ~~this~~ the state;

~~(4)(b)~~ ~~for any~~ additional information the board may require;

~~(4)(2)~~ The application shall be accompanied by a fee of ~~one hundred dollars (\$100)~~, which shall also be considered the first annual fee if the application is granted; however, the annual fee shall be paid on the following May 1 and each year thereafter, as provided herein."

Section 35. Section 46-910, R.C.M. 1947, is amended to read as follows:

"46-910. Livestock markets licensed -- grounds of discontinuance. If after a hearing in the manner provided in this ~~act~~ chapter it appears to the board that a livestock market ~~licensed for which a certificate has been issued~~ under this ~~act~~ chapter has, for a period of ~~two~~ two successive years, failed to provide the minimum revenue to the state as provided in this ~~act~~ chapter, the livestock market may be discontinued by order of the board."

Section 36. Section 46-911, R.C.M. 1947, is amended to read as follows:

"46-911. ~~License--fee~~ Fee. A person operating a livestock market in this state shall pay on May 1, annually, a ~~license fee of one hundred dollars (\$100)~~ to the board. All fees under this ~~act~~ chapter shall be paid into the state

treasury, and placed by the state treasurer to the credit of the earmarked revenue fund for the use of the board."

Section 37. Section 46-912, R.C.M. 1947, is amended to read as follows:

"46-912. Bond required -- conditions. (1) Every person operating a livestock market in this state shall provide a bond in favor of this state, upon a form and with surety to be approved by the board, in the minimum penal sum of ~~ten thousand dollars (\$10,000)~~ or such greater sum as the board may determine, conditioned upon:

~~(1)(a)~~ the payment immediately upon the sale of the livestock of all money received, less reasonable expenses and commissions, by the ~~licensee and operator of the~~ livestock market to the rightful owner of livestock so consigned and delivered to ~~the licensee~~ it for sale;

~~(2)(b)~~ the payment of the minimum fees as provided by ~~section~~ 46-909; and,

~~(3)(c)~~ a full compliance with this ~~act~~ chapter, including all rules adopted under this ~~act~~ chapter.

(2) When approved the bond shall be filed with the board.

(3) Actions of law may be brought in the name of the state upon the bond for the use and benefit of a person who suffers loss or damage from violations thereof, and may be brought by the person suffering loss or damage in the county

of his residence."

Section 38. Section 46-913, R.C.M. 1947, is amended to read as follows:

"46-913. Records kept by ~~licensees~~ livestock markets. Each ~~licensee~~ livestock market shall keep accounts, records, and memoranda, and shall make reports, which the board requires, and the board and its authorized agents and employees shall at all times have access to the accounts, records, and memoranda for inspection and examination."

Section 39. Section 46-915, R.C.M. 1947, is amended to read as follows:

"46-915. Cancellation or suspension of certificates — grounds. ~~Finding by the board that a licensee~~ The board may cancel or suspend the certificate of an operator of a livestock market if it finds that the operator has:

~~(a) (1)~~ has been guilty of fraud or misrepresentation as to the titles, charges, number, brands, weights, proceeds of sale, or ownership of livestock;

~~(b) (2)~~ has violated any of the provisions of this act chapter;

~~(c) (3)~~ has violated any of the rules adopted and published by the board;

~~(d) (4)~~ has violated ~~sections~~ 46-801 through 46-806;

or,

~~(e) (5)~~ has violated any of the conditions of the bond,

as provided by this act chapter, ~~is sufficient cause for the cancellation or suspension of the certificate of the offending operator of the livestock market."~~

Section 40. Section 46-916, R.C.M. 1947, is amended to read as follows:

"46-916. Investigation of actions of ~~licensees~~ livestock markets — hearing of complaints — additional powers and duties of members of board or agents — witnesses. (1) ~~The~~ When considered necessary, the board or any member or agent of the board, may upon a motion, or upon a verified complaint in writing ~~of a person, when considered necessary, may~~ investigate the actions of a ~~licensee~~ livestock market and, if found proper to do so, shall file a complaint against the ~~licensee~~ livestock market with the board. The complaint shall be set for hearing before the board upon ~~ten~~ (10) days' notice served upon the ~~licensee~~ livestock market.

(2) Any investigation, inquiry, or hearing which the board may undertake or hold, under this act, chapter may be undertaken or held by or before any board member or by or before any agent or examiner of the board designated for that purpose by the board. A finding, order, or decision made by a board member or agent or examiner of the board so designated, pursuant to the investigation, inquiry, or hearing, when approved and confirmed by the board and

1 ordered filed in its office, is considered the finding,
2 order, or decision of the board. An agent or examiner of the
3 board may administer oaths, examine witnesses, and receive
4 evidence."

5 Section 41. Section 46-917, R.C.M. 1947, is amended to
6 read as follows:

7 "46-917. Appeal by ~~licensee~~ livestock market or
8 applicant for certificate -- bond -- procedure. An appeal of
9 a decision of the board for refusing to grant an application
10 for a certificate or suspending or revoking a certificate of
11 a ~~licensee~~ livestock market shall be taken to the district
12 court of the county in which the proposed livestock market
13 is to be located or in which the ~~licensee~~ authorized
14 livestock market has ~~his~~ its principal place of business.
15 The appellant shall file a bond with the clerk of the
16 district court in the sum of ~~three hundred dollars~~ (\$300) to
17 be approved by the judge of the court, conditioned to pay
18 all costs that may be awarded against the appellant in the
19 event of an adverse decision or the decision of the board
20 being affirmed. The cost of preparing transcripts shall be
21 paid by appellant. In case of suspension or revocation of a
22 certificate, the filing of the notice and bond shall stay
23 the order of the board until the final determination of the
24 appeal. If the appellant fails to perfect ~~his~~ the appeal the
25 stay shall automatically terminate."

1 Section 42. Section 46-920, R.C.M. 1947, is amended to
2 read as follows:

3 "46-920. Penalties ~~for violating act~~. A person who
4 violates any provisions of this ~~act~~ chapter or rules adopted
5 by the board under this ~~act~~, chapter is guilty of a
6 misdemeanor and upon conviction shall be fined not less than
7 ~~one hundred dollars~~ (\$100) ~~or~~ or more than ~~six hundred~~
8 ~~dollars~~ (\$600), ~~or~~ or imprisoned in the county jail not less
9 than ~~thirty~~ (30) days ~~or~~ or more than ~~six~~ (6) months, or
10 both fined and imprisoned. A person who has been convicted
11 of a violation of this ~~act~~ chapter and who subsequently is
12 found guilty of a ~~another~~ another violation of this ~~act~~ chapter
13 shall be fined not less than ~~two hundred dollars~~ (\$200) ~~or~~
14 ~~or~~ or more than ~~one thousand dollars~~ (\$1,000), ~~or~~ or imprisoned in
15 the county jail for not less than ~~three~~ (3) months ~~or~~ or
16 more than ~~six~~ (6) months, or both fined and imprisoned. A
17 second conviction requires the board to suspend or cancel
18 the certificate of the person without a hearing, and the
19 person may not again be granted a certificate for a period
20 of ~~one~~ (1) year."

21 Section 43. Section 46-921, R.C.M. 1947, is amended to
22 read as follows:

23 "46-921. Jurisdiction of district courts. The district
24 courts shall have original jurisdiction in all criminal
25 actions for violations of the provisions of this ~~act~~

1 chapter."

2 Section 44. Section 46-1011, B.C.M. 1947, is amended
3 to read as follows:

4 "46-1011. Powers and duties of inspectors outside of
5 state. (1) The stock inspector appointed to inspect Montana
6 cattle at a cattle market outside this state shall be
7 commissioned by the department, and may inspect cattle that
8 come from this state to the market where he is located. He
9 has the same power as stock inspectors in this state to
10 inspect, and seize, and sell stock which he has reason to
11 believe is stolen, or on which brands have been altered or
12 obliterated. He may take the proceeds of an animal in
13 dispute, or bearing altered or burned brands, remitting the
14 proceeds to the department, which shall hold the proceeds
15 pending a decision on ownership.

16 (2) The stock inspector shall, on receipt of the
17 certified lists mentioned in ~~sections 46-1009~~ 46-1008 and
18 46-1010, make an inspection of the cattle listed, and if, on
19 comparison of the list with his own inspection, he finds a
20 difference or discrepancy, he shall make a second inspection
21 of any animal for which the two tallies do not agree,
22 clipping the animal when necessary to determine, accurately
23 and definitely, which inspection or tally is correct. He
24 shall immediately make an inspection report to the
25 department, stating in detail where the discrepancies with

1 the loading tally exist, and calling special attention to
2 his own inspection of the animal. He shall, in his own
3 report, make mention of any animal, with the brands on the
4 animal, which were taken out by the shipper in charge of the
5 stock while in transit between the original loading point
6 and point of final destination. These reports shall be
7 entered in a suitably bound book and are at all times open
8 to public inspection."

9 Section 45. Section 46-1101.2, B.C.M. 1947, is amended
10 to read as follows:

11 "46-1101.2. Hide certificate -- identification. (1) A
12 seller of an animal hide shall obtain a hide certificate
13 from the person receiving the hide. The department shall
14 prescribe the form of the certificate which shall include
15 the marks and brands on each hide. The party receiving the
16 hide must designate where it will be kept for ~~thirty~~ (30)
17 days following delivery. The certificate must be signed by
18 the seller or his agent and the person receiving the hide.

19 (2) Hide certificates, tags, and glue shall be
20 furnished to the sheriff of each county by the department at
21 cost and by the sheriff to any person requiring the
22 certificates, tags, and glue. Only those certificates, tags,
23 and glue distributed by the department may lawfully be used
24 under this act. The original certificate shall be filed with
25 the sheriff of the county of the seller's residence. One (1)

1 copy shall be sent by the party receiving the hide to the
2 department, one ~~(4)~~ retained by the seller, and one ~~(4)~~ by
3 the hide buyer. On reasonable notice, a sheriff, deputy
4 sheriff, state stock inspector, or deputy state stock
5 inspector may inspect the hide certificate copy of the
6 seller or buyer. The department shall prescribe an
7 identification tag to be affixed to each hide by the person
8 receiving the hide when it is delivered. ~~Hide dealers and~~
9 ~~buyers if hides are purchased outside the county of the~~
10 ~~seller's residence, the hide dealer or buyer must also mail~~
11 ~~the original a copy of the~~ hide certificate to the sheriff
12 of each county in which hides are purchased within ~~five~~ (5)
13 days after purchase."

14 Section 46. Section 46-1103, R.C.M. 1947, is amended
15 to read as follows:

16 "46-1103. Mutilation or concealment of hides ~~deceit~~ a
17 felony. Every person who willfully or maliciously mutilates,
18 destroys, or conceals the hide ~~from~~ of any horse, mare,
19 colt, mule, jack, ~~jeanet~~ jenny, bull, steer, cow, calf,
20 goat, hog, or sheep with intent to or for the purpose of
21 removing evidence of ownership of such hide or the animal
22 from which ~~said~~ the hide was removed, is guilty of a felony,
23 and punishable as hereinafter provided."

24 Section 47. Section 46-1104, R.C.M. 1947, is amended
25 to read as follows:

1 "46-1104. Sufficiency of pleading and proof in
2 criminal prosecution ~~under act~~. In any prosecution for the
3 violation of the provisions of this act, it ~~shall~~ is not be
4 necessary for the state to allege in the complaint or
5 information ~~or proof~~, the ownership of the hide, or of the
6 animal from which ~~said~~ the hide was removed, but it ~~shall be~~
7 is sufficient to allege in the complaint or information ~~or~~
8 ~~proof~~ that the owner of ~~said~~ the hide or of the animal from
9 which ~~said~~ the hide was removed, is unknown and not the
10 property of the defendant."

11 Section 48. Section 46-1107, R.C.M. 1947, is amended
12 to read as follows:

13 "46-1107. Hide dealer or ~~buyers~~ buyer's license fee --
14 disposition of proceeds. ~~* Before engaging in business in~~
15 ~~this state, a~~ hide dealer or buyer shall ~~pay to obtain a~~
16 ~~license from~~ the department, ~~* The annual~~ license fee ~~of~~
17 ~~five dollars is~~ (5) for each established place of business
18 at which the hide dealer or buyer purchases or deals in
19 hides, ~~before engaging in or conducting this business in~~
20 ~~this state~~. The license continues in force for that calendar
21 year. The moneys collected from the licenses shall be placed
22 in the earmarked revenue fund ~~of~~ for the department. The
23 license must be renewed January 1 of each year."

24 Section 49. Section 46-1107.1, R.C.M. 1947, is amended
25 to read as follows:

"46-1107.1. Acting without a license -- revocation.

(1) Any person acting as a hide dealer or buyer without a license as required by this act is guilty of a misdemeanor.

(2) Upon receipt of a certified copy of the judgment of conviction of any hide dealer or buyer for any violation of this act, the ~~livestock-commission~~ department may revoke the license of such person for ~~one~~ 1 year commencing on the date of the licensee's conviction."

Section 50. Section 46-1406, E.C.S. 1947, is amended to read as follows:

"46-1406. Procedure when owner unknown or not resident of state -- sale of wire removed. If there be is no known owner of such wire within the state, or if such owner be is unknown to the board of county commissioners, ~~said the board shall have authority to may~~ collect and remove ~~said the~~ wire at the expense of the county. All such wire or other fencing as in the opinion of the board of county commissioners can be sold at a price sufficient to cover at least the expense of removal and sale, shall be sold by the county commissioners in the manner ~~now~~ provided by law for the sale of county property, except that notice of such sale need be published only once and need be given only ~~ten~~ 10 days before such sale."

Section 51. Section 46-1410, E.C.S. 1947, is amended to read as follows:

"46-1410. Stock trespassing may be retained. (1) If an animal breaks into an inclosure surrounded by a legal fence, or is wrongfully on the premises of another, the owner or occupant of the inclosure or premises may take into his possession the trespassing animal, and keep the animal until all damages, together with reasonable charges for keeping and feeding the animal, are paid. The person who takes the animal into his possession shall, within ~~seventy-two~~ (72) hours after he takes possession, give written notice to the owner or person in charge of the animal, stating that he has taken the animal. The notice shall also give the date of the taking, the description of the animal taken, including marks and brands, if any, the amount of damages claimed, ~~and~~ the charge per head per day for caring for and feeding the animal, and ~~shall describe the description~~, either by legal subdivisions or other general description, of the location of the premises on which the ~~animals are~~ animal is held. In all cases a copy of the notice shall also be posted at a point where the ~~stock animal~~ was taken.

(2) The notice shall be given to the owner or person in charge only when the owner or person in charge of the animal is known to the person taking the animal and resides within ~~twenty-five~~ (25) miles of the premises on which the ~~animals have been~~ animal was taken. If the owner or person

1 in charge of the animal resides more than ~~twenty-five~~ (25)
 2 miles from the place of the taking, the notice shall be
 3 mailed to him, ~~and in~~. In this case, ~~and also~~ or if the
 4 owner is unknown, a similar notice shall be mailed to the
 5 department of livestock and the sheriff of the county in
 6 which the ~~animals have~~ animal has been taken. On receipt of
 7 the notice, the sheriff shall post a copy of the notice at
 8 the courthouse and shall send by ~~registered~~ certified mail a
 9 copy of it to the owner of the stock, if known to him. If
 10 unknown to him, the sheriff shall send a copy of the notice
 11 to the nearest state livestock inspector.

12 (3) If the parties within ~~five~~ (5) days thereafter do
 13 not agree to the amount of damages, the ~~lien~~ claimant must
 14 within ~~ten~~ (10) days thereafter institute a civil action to
 15 ~~foreclose his lien~~ collect his claim in a court of competent
 16 jurisdiction. Pending the outcome of the suit, the person
 17 taking the stock may, at the expense of the owner, retain a
 18 sufficient ~~amount~~ number of ~~stock~~ animals to cover the
 19 amount of damages claimed by him. The defendant may, after
 20 the institution of the action, on filing a bond executed by
 21 two (2) or more sureties and approved by the court, in
 22 double the sum sued for, conditioned ~~for~~ upon the payment to
 23 the plaintiff of all sums, including costs that may be
 24 recovered by the plaintiff, have all livestock returned to
 25 him, ~~and the person~~. The claimant is liable to the owner for

1 any loss or injury to the stock occurring through his fault
 2 or neglect. If the ~~person taking the stock~~ claimant fails
 3 to recover in the action a sum equal to that offered him by
 4 the owner of the stock, the ~~former~~ claimant bears the
 5 expense of keeping and feeding the stock while in his
 6 possession.

7 (4) A person who takes or rescues an animal from the
 8 possession of the person taking the animal, without his
 9 consent, is guilty of a misdemeanor, and shall be fined not
 10 less than ~~one hundred dollars~~ (\$100) ~~nor~~ or more than ~~five~~
 11 ~~hundred dollars~~ (\$500)."

12 Section 52. Section 46-1708, B.C.M. 1947, is amended
 13 to read as follows:

14 "46-1708. Declaration of animals running at large as
 15 nuisance — abatement. Any such animal so running at large
 16 ~~shall be, and it is hereby declared to be,~~ is a public
 17 nuisance, which, in addition to the means and proceedings
 18 prescribed by this act for its abatement and removal, may be
 19 abated and removed by the means and proceedings ~~now, or~~
 20 ~~hereafter to be,~~ provided by law for the abatement or
 21 removal of public nuisances."

22 Section 53. Section 46-1717, R.C.M. 1947, is amended
 23 to read as follows:

24 "46-1717. Female breeding cattle, purebred bull to
 25 accompany. [1] Any person, ~~or~~ persons, firm, company, or

corporation allowing or permitting female breeding cattle to run at large upon the public ranges or national forest reserves in the state of Montana must place upon ~~each~~ the range or national forest reserve one purebred graded bull of a recognized beef type, not less than ~~fifteen--(15)~~ months ~~not~~ or more than ~~eight--(8)~~ years of age, for every ~~thirty~~ (30) head of female breeding cattle, pastured upon such range or national forest reserve; ~~provided, however, that~~ any. Any two (2) or more such users of the public range or national forest reserve may join together in furnishing such bull when the aggregate number of female breeding cattle turned loose upon the same range or national forest reserve by such two (2) or more users thereof does not exceed ~~thirty~~ (30) head.

(2) A purebred bull as contemplated by this act must be a bull having a registration certificate from the breeding association of its particular breed. A graded bull, as defined in this act, shall be ~~one~~ a purebred bull selected by a committee of permittees."

Section 54. Section 46-1802, R.C.M. 1947, is amended to read as follows:

"46-1802. Abandoned horses on public range declared public nuisance subject to condemnation -- right of owner. It ~~shall be~~ is unlawful for any person ~~to suffer or permit~~ any abandoned horse to run at large owning or having control

of any horse to abandon the horse upon the open range in the state of Montana, and such horses so running at large upon the open range in the state are ~~hereby declared to be~~ a public nuisance and a public menace, and are ~~hereby~~ condemned, subject to the right of the owner of any such abandoned horse to reclaim the same ~~as and~~ under the conditions hereinafter provided."

Section 55. Section 46-2412, R.C.M. 1947, is amended to read as follows:

"46-2412. Disposal of hides -- inspection -- filing of dead or fallen animal record. When a licensed renderer or his agent disposes of the hides from dead or fallen animals, the hides shall be handled and inspected for marks and brands in conformity with Title 46, chapter 11. The sheriff, deputy sheriff, person designated by the board of county commissioners, or the agent of the department who makes the inspection for marks and brands in conformity with Title 46, chapter ~~26~~ 11, shall complete the original dead or fallen animal record which accompanies the hide by inserting his inspector's tag number. He shall file the completed original dead or fallen animal record without cost in the office of the county clerk and recorder, together with the duplicate certificate of inspection required to be filed under Title 46, chapter 11."

Section 56. Section 46-3001, R.C.M. 1947, is amended

1 to read as follows:

2 "46-3001. Dogging livestock. Any person, who shall
3 ~~permit permits~~ or ~~direct directs~~ any dog owned by ~~them, his~~
4 or in ~~their his~~ possession ~~or in the possession of any~~
5 ~~employer~~ to chase or run any cattle or other livestock, of
6 which he is not the owner or the person in charge, upon the
7 open range, or government lands or away from any watering
8 place upon the open range, ~~shall be~~ is guilty of a
9 misdemeanor and ~~shall be~~ punishable by a fine of not more
10 than ~~fifty dollars~~ \$50."

11 Section 57. Section 46-3007, R.C.M. 1947, is amended
12 to read as follows:

13 "46-3007. Stolen livestock — seizure and confiscating
14 of vehicle used to transport — service of process. Service
15 of process in ~~such a~~ proceeding for confiscation of such
16 vehicle shall conform as far as practicable with the
17 provisions of ~~sections 93-3007 to 93-3045, both inclusive,~~
18 the Montana rules of civil procedure, provided, that ~~in so~~
19 ~~far insofar~~ as the proceeding against the vehicle is
20 concerned no copy of the summons or complaint need be mailed
21 ~~and no showing need be made under the provisions of said~~
22 ~~section 93-3043,~~ and the service shall be complete upon
23 publication."

24 Section 58. Section 82A-406.1, R.C.M. 1947, is amended
25 to read as follows:

1 "82A-406.1. Intent of act. ~~It is the intent of this~~
2 ~~act to place jurisdiction~~ Jurisdiction over milk hauling
3 rates from producer to plant is in the department of
4 business regulation and jurisdiction over such rates among
5 plants is in the board of milk control."

6 Section 59. Repealer. Sections 3-2445, 3-2446, 46-904,
7 46-905, and 46-1201 through 46-1204, R.C.M. 1947, are
8 repealed.

-End-